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SENATE

REPORT
No. 94-284

OUTER CONTINENTAL SHELF MANAGEMENT ACT OF 1975

JULY 17 (Legislative Day, JULY 10), 1975.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany S. 521]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, having considered the same, reports favorably thereon with an amendment, and recommends that the bill, as amended, do pass.

The amendment to the text strikes all after the enacting clause and inserts a complete new text which is printed in italic type in the reported bill.

I. PURPOSE

During the next decade, development of conventional oil and gas from the United States Outer Continental Shelf can be expected (a) to provide one of the largest single sources of increased domestic energy, (b) to supply this energy at a lower average cost to the U.S. economy than any alternative and (c) to supply it with substantially less harm to the environment than almost any other source.

Despite the intense and justified concern of many people over the potential damage to the environment and the onshore impacts of oil and gas development on the OCS, there is an increasing feeling that responsible OCS development may well be more acceptable environmentally than other potential domestic energy resources such as massive strip mining for coal and oil shale.

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Because the OCS represents such a large and promising area for oil and gas exploration, the Congress must update the Outer Continental Shelf Lands Act of 1953, which has never been amended, to provide adequate authority and guidelines for the kind of development activity that probably will take place in the next few years. The Committee believes that the law should be revised before any large-scale expansion of OCS leasing.

There are two basic thrusts to S. 521. First, it reasserts Congress' special Constitutional responsibility to "make all needful rules and regulations respecting the territory or other property belonging to the United States". (U.S. Const. Art. IV Sec. 3 Cl. 2.) The Outer Continental Shelf Lands Act is essentially a carte blanche delegation of authority to the Secretary of the Interior. The increased importance of OCS resources, the increased consideration of environmental and onshore impacts and emphasis on comprehensive land use planning, require Congress to put some "flesh on the bones" in the form of standards and criteria for the Secretary to follow in the exercise of his authority.

Second, the bill gives the Secretary new authority needed to manage the programs anticipated in the last third of the twentieth century.

The major provisions would (1) establish policy guidelines, (2) require a 5-year leasing program, (3) give the coastal States an increased role in Federal OCS decisions, (4) provide Federal compensation to coastal States adversely affected by OCS development, (5) improve safety requirements, (6) establish unlimited absolute liability for oil spill damage with payments from a liability fund, (7) provide for a two-step decision process to separate exploration from development and production, and (8) authorize new leasing systems and require their use on an experimental basis.

II. Summary of Major Provisions

1. Policy—Section 201

The bill declares that the OCS is a vital national resource reserve held by the Federal Government for all the people, which should be made available for orderly development, subject to environmental safeguards, when necessary to meet national needs.

It also expressly recognizes that in view of the impact on the coastal zone of OCS development, the coastal States may require assistance in protecting the coastal zone and coastal States should participate in OCS policy and planning decisions.

The Act also recognizes and preserves the States' rights to protect their marine and coastal environment.

2. Advance Planning—New Section 18

The Secretary is directed to prepare a comprehensive leasing program designed to carry out the policy. This program would indicate the size, timing, and location of leasing activity which the Secretary believes would meet national energy needs over the next five years. The leasing program must be consistent with the following principles:

> (1) management of the Outer Continental Shelf in a manner which considers all its economic, social and environmental values and the potential impact of oil and gas development on these values and the marine and coastal environment;

(2) timing and location of leasing so as to distribute exploration, development and production of oil and gas among various areas of the Outer Continental Shelf considering among other things:

(A) existing information concerning their geographical, geological and ecological characteristics;

(B) their location with respect to, and relative needs of, regional energy markets;

(C) their location with respect to other uses of the sea and seabed;

(D) interest by potential oil and gas producers in exploration and development as indicated by tract nominations and other representations;

(E) an equitable sharing of developmental benefits and environmental risks among various regions of the United States; and

(F) laws, goals, and policies of the affected and adjacent coastal States.

(3) timing and location of leasing so that areas with the greatest potential for environmental damage and impact on the coastal zone are leased last, to the maximum extent practicable, consistent with the Secretary's determination of national needs;

(4) receipt of fair market return for public resources.

3. Coastal State and Public Participation.—New Sections 18 and 30, and Section 206

Numerous provisions of S. 521 are designed to give states and local governments and the general public a significant opportunity to participate in and comment on Federal OCS planning and policy decisions. This is particularly significant with respect to development of the 5-year leasing program pursuant to new Section 18 and review of development and production plans required by Section 206.

New Section 30 authorizes the Governors of coastal States to establish regional Outer Continental Shelf advisory boards. The boards would advise the Secretary on all matters related to Outer Continental Shelf oil and gas development including but not limited to development of the leasing program required by new section 18; approval of development and production plans required by section 206; implementation of environmental baseline and monitoring studies; and the environmental impact statements prepared in the course of implementation of the Act.

One of the most significant features of the bill is the provision of new section 32(d) which states that if a regional advisory board or a governor of a potentially affected coastal state makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or on a proposed development and production plan, the Secretary shall accept such recommendations from the regional advisory board or governor, unless he determines they are not consistent with national security or overriding national interests.

4. Assistance to the Coastal States.—New Section 24

The coastal States are impacted by OCS development in a variety of ways. The secondary impacts onshore are far greater than the potential direct impact from oil spills and the activity on the OCS lease site itself. These impacts stem from the development of onshore support

facilities for OCS development and the location of petroleum refining and transportation facilities near production sites.

The Committee believes that coastal state opposition to OCS leasing can lead to significant delays in oil and gas development. A major reason for such opposition in "frontier" leasing areas such as the Atlantic and Alaska coasts as well as in California is concern about the ability of State and local governments to cope with the onshore economic and social problems caused by OCS development.

These legitimate concerns of these States must be balanced against the national need to develop the Federal energy resources of the Outer Continental Shelf. The Committee believes that the Federal Government should assist the States in ameliorating adverse environmental impacts and controlling secondary economic and social impacts associated with OCS oil and gas development. For this reason S. 521 provides that 10% of the Federal OCS revenues but not to exceed $200 million per year will be available for grants to impacted coastal States for this purpose.

5. Separation of Exploration from Development and Production—Section 206

Section 206 of S. 521 provides the mechanism for separation of exploration from development and production endorsed by the National Governors Conference, the National Conference of State Legislatures, the Coastal States Organization and many other groups. It is one of the most significant portions of S. 521.

If a Federal lessee finds oil and gas he must prepare and submit to the Secretary, the Governor of affected coastal States and any regional OCS advisory board a development and production plan. The plan must include information about the nature and extent of the development and production program—both on the Outer Continental Shelf and onshore. Review of this plan will give the coastal States a real opportunity to assess the potential, environmental, social and economic impacts of the development and to resolve any problems with the Secretary and the lessee before they occur.

6. Federal Oil and Gas Survey Program.—New Section 19

The Secretary would be directed to conduct a survey of oil and gas resources of the OCS. This program would be designed to provide information about the probable location, extent and characteristics of these resources. It would provide a basis for development and revision of the leasing program and more informed decisions about fair market value of resources. As part of this program the Secretary would be authorized to purchase data and contract for stratigraphic drilling on the OCS.

The Secretary would prepare and publish maps and reports on the OCS. This information should help potential oil and gas developers to participate in and the general public to undesrtand, OCS programs.

7. Research and Development.—New Section 21

To improve technology used in OCS development, the Secretary would be directed to carry out a research and development program where such research was not being done adequately by others. This

would include consideration of (1) downhole safety devices, (2) methods for reestablishing control of blowing out or burning wells, (3) methods for containing and cleaning up oil spills, (4) improved flaw detection systems for undersea pipelines.

8. Unlimited Oil Spill Liability.—New Section 23

The bill puts into law the existing rule, established by Departmental regulation, that an OCS lessee is liable for the total cost of control and removal of spilled oil. It also creates a new strict liability rule for damages from OCS oil spills. The provisions are patterned after the Trans-Alaska Pipeline Authorization Act of 1973. (Title II of P.L. 93–153 and the Deepwater Port Act (P.L. 93–627).)

The damage liablity is imposed, except for acts of war, without regard to fault, and without regard to ownership of the land or resource damaged if the land or resource is relied on for subsistence or economic purposes. Thus there can be recovery for damage to fisheries despite the fact that the fisherman has no property right in the uncaught fish. Resort owners could also recover for loss of business caused by an oil spill on the beach even though they do not own the beach. On the other hand, sport fishermen or vacationers could not recover for any inconvenience caused by a spill.

The lessee or holder of a right of way is liable for the first $7 million and the Offshore Oil Pollution Settlement Fund, created by the Act, is liable for balance.

The money in this Fund will come from a fee of 2½¢ on each barrel of oil produced from the Outer Continental Shelf. The Fund will be administered by OCS lessees subject to audit by the General Accounting Office.

The Fund is authorized to borrow from commercial sources so no government funds would be used to pay damage claims.

9. Industry Information Disclosure.—New Section 19 and Section 207

The bill requires any person holding a geological or geophysical exploration permit to submit to the government the data and information obtained during exploration. All oil and gas lessees would have to submit data about the oil and gas resources in the area covered by the lease. The Secretary would keep all proprietary data confidential until he determines that public availability of the data would not damage the competitive position of the permittee or lessee.

The Committee feels strongly that private parties using public resources for private profit should be required to make information they obtain about the resources available to the representatives of the public. At the same time, the Committee recognizes the value of this information to the individual explorer or producer. The provisions of S. 521 are designed to balance the public's interest in obtaining information about its resources and public's interest in maintaining an active and competitive oil and gas industry.

10. Safety and Performance Standards and Enforcement.—New Section 20

S. 521 directs the Secretary to establish safety and performance standards for all pieces of equipment pertinent to public health, safety or environmental protection. These standards must require use of the

best available technology where failure or malfunction of the equipment would have a substantial impact on public health, safety or the environment.

To assure that increased OCS development proceeds in as safe a manner as possible, the Secretary would be directed to conduct regular inspections and strictly enforce safety regulations. The inspections must take place at every stage of operations which means that Congress must provide funding and manpower needed. Penalties for violation of the regulations would be increased and lessees would be required to give the Secretary any information he needs to assure a safe operation.

11. Revised Bidding Systems.—Section 203

S. 521 authorizes a wide variety of new bidding systems. These are designed to reduce the front end cash bonus, increase the government's return on actual production of oil or gas, make it easier for smaller companies to enter the OCS development business, and increase the availablity of funds for exploration.

The bill sets forth procedures for utilizing the various bidding alternatives authorized, limits the use of joint bidding, and requires the testing of at least four new alternative bidding practices in the first 2 years after the date of enactment of this Act.

The Committee recognizes that these alternatives may not be the "perfect solution." However, they should facilitate entry into the OCS development business of more independent producers and are certainly worth trying on an experimental basis.

In order to assure that these alternatives will be used, the bill limits the Secretary's authority to use the cash bonus fixed royalty system which has been the historical method of OCS bidding.

12. Promotion of Competition.—New Section 26 and Sections 203 and 204.

S. 521 revises bidding systems to encourage entry of new competitors, especially smal independent operators. It also deals with sale of royalty oil and requires a report with specific recommendations to improve competition, maximum production and insure fair return to the public from development of OCS resources.

13. Environmental Studies by Government.—New sections 28 and 29.

Environmental baseline and monitoring studies are required before oil and gas drilling can begin on any OCS area not previously leased. These studies will involve all appropriate government agencies, particularly the National Oceanic and Atmospheric Administration.

14. Stringent Civil and Criminal Penalties.—New Section 27.

Increases criminal penalties for certain willful violations of the Act. Imposes civil liability for violations which continue after notice and opportunity to correct violations.

15. Interagency Coordination of All Facets of OCS Oil and Gas Development.

Contains numerous provisions designed to promote Federal interagency coordination, particularly among the Departments of Interior, Commerce, and Transportation. Also directs coordination with State and local government agencies.

III. Background and Need

HISTORY OF OCS ACT

In 1953, Congress enacted the Outer Continental Shelf Lands Act. This Act authorizes the Secretary of the Interior to grant mineral leases on the Outer Continental Shelf and to prescribe regulations for their administration.

Presently, the Outer Continental Shelf program is handled jointly by the Geological Survey and the Bureau of Land Management under a joint arrangement which divides responsibility by allocating to the BLM the leasing function and to the Survey the prelease resource evaluation and the post-lease administration function.

The OCS Act of 1953 stemmed from the proclamation on the Continental Shelf issued by President Truman in 1945. It declared the natural resources of the "subsoil and seabed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States" to be subject to the control and jurisdiction of the U.S. The proclamation did not define the seaward limits of the Continental Shelf but the accompanying press release (September 28, 1945) from the White House indicated that the submerged land which is covered by no more than 100 fathoms (600 feet) of water was considered as the Continental Shelf.

The 1958 Geneva Convention on the Continental Shelf ratified by the U.S. in 1960 includes an open-ended definition of the Shelf as extending to a depth of 200 meters "or beyond that limit to where the depth of the superjacent waters admits of the exploitation of the natural resources."

In 1947 and 1950, the Supreme Court ruled on the controversy between the United States and various coastal states over ownership and control of the shelf. The Supreme Court decided that the entire Shelf was under Federal control. *United States* v. *California*, 332 U.S. 19 (1947); *United States* v. *Louisiana*, 339 U.S. 699 (1950); *United States* v. *Texas*, 339 U.S. 707 (1950). However, in 1953 Congress passed the Submerged Lands Act which "released and relinquished" to the coastal states that portion of the Shelf extending out from the mean high tide line for 3 miles or to their historic boundaries. Congress followed this with the OCS Lands Act which was primarily designed to be an affirmation of the 1945 assertion of jurisdiction by President Truman.

The 1953 Act reflects this emphasis on jurisdictional questions. Its "bare bones" leasing authority with essentially no statutory standards or guidelines also reflects the relative lack of basic knowledge concerning, and interest in, development of the resources of the Shelf at that time.

HISTORY OF OUTER CONTINENTAL SHELF RESOURCE DEVELOPMENT

The total shelf and continental margin area of the Outer Continental Shelf is estimated to be approximately 1,175,680,000 acres (including areas beyond the 200-meter water depth to 2,500-meter water depth). Of this total, the area under Federal jurisdiction is approximately 1,146,680,000 acres.

Pursuant to the Submerged Lands Act and subsequent court decisions, coastal states have jurisdictions within 3 miles of their coasts and Texas and Florida have jurisdiction for three marine leagues off their Gulf of Mexico coasts—which accounts for the difference in area of the shelf and margin area and that part under Federal jurisdiction.

Since the passage of the OCS Lands Act (67 Stat. 462; 43 U.S.C., Sec. 1331–1343) on August 7, 1953, 38 lease sales have been held, the large majority of which have been offshore Louisiana and Texas. Currently outstanding leases include over eight million acres. Petroleum production amounts to approximately 11 percent of total domestic production and natural gas production amounts to approximately 16 percent.

Production of hydrocarbons includes over three billion barrels of oil (including condensate) and nineteen trillion m.c.f. of natural gas.

The Outer Continental Shelf Lands Act provides for payment to the Federal Government of revenues derived from oil and gas leases on the Outer Continental Shelf subject to Federal jurisdiction.

All but 10 OCS leases issued to date have required payment to the Federal Government based on a royalty rate of 16⅔ percent in the amount or value of the production saved, removed, or sold from the lease. The other 10 were issued on a royalty bidding basis. The annual rental and minimum royalty required for leases offered at general lease sales (unproven areas) have been $3 per acre, and have been $10 per acre for leases offered at drainage sales (proven areas). Total Federal revenues from Outer Continental Shelf resource development amount to over 18 billion dollars.

OCS OIL AND GAS RESERVES

In May the U.S. Geological Survey estimated that there are now demonstrated reserves of less than 1 billion barrels of oil and less than 1 trillion cubic feet of gas in the OCS off Southern California, and 2.2 billion barrels of oil and 35 trillion cubic feet of gas in the OCS in the Gulf of Mexico off Louisiana and Texas.

In addition to the demonstrated reserves known to exist on the OCS, the continental margin of the United States is believed to contain very large amounts of undiscovered oil and gas resources. The presence of these resources has not actually been demonstrated, nor can it be determined what portion may prove to be economically recoverable even if they are discovered. The figures given represent those arrived at by geological inference from indirect evidence. The distinction between potential resources and proved reserves is an important one, because many dollars of investment and much effort separate the one from the other.

The U.S. Geological Survey's most recent estimates (May 1975) that the potential recoverable petroleum resources remaining on the OCS of the United States out to a water depth of 200 meters are 10–49 billion barrels of crude oil and natural gas liquids and about 42–81 trillion cubic feet of natural gas. For purposes of comparison, the United States consumed 6 billion barrels of oil and 23 trillion cubic feet of gas in 1973.

RECENT DEVELOPMENTS

The OCS leasing program has been confined almost exclusively to the Gulf of Mexico. The only exception is a small area leased off southern California.

If we are to increase our OCS oil and gas development, leasing must take place in new or "frontier" areas. A number of steps have already been taken in that direction.

On April 18, 1973, the President announced that the Outer Continental Shelf leasing rate would be increased from 1 million acres per year to 3 million acres per year and that the 5-year tentative leasing schedule should be revised to reflect this acceleration.

On April 18, 1973, the President directed the Council of Environmental Quality (CEQ) to study the environmental impact of oil and gas production on the Atlantic and Gulf of Alaska Outer Continental Shelf, since it was clear that continued accelerated leasing in the Gulf of Mexico and offshore California would soon consume available acreage in those areas.

On January 23, 1974, the President directed that Outer Continental Shelf leasing be even further accelerated and that 10 million acres be leased in 1975.

On February 20, 1974, the Department of the Interior published in the Federal Register a request for comment on 17 potential OCS oil and gas leasing areas. The responses ranked the areas of greatest potential as the Gulf of Alaska, in the central Gulf of Mexico, and the Beaufort Sea, respectively. Four companies ranked areas according to which frontier areas they would prefer to have leased first. In order of leasing priority, these areas were the mid-Atlantic, the Gulf of Alaska, and Cook Inlet, respectively.

In response to the President's directives to accelerate leasing, the Department issued in November 1974, a four-year OCS proposed planning schedule which listed 24 sales, six sales per year, through the end of 1978, with sales in all frontier areas. Nine sales were listed for the Alaska OCS, six for the Atlantic, five for the Pacific, and four for the Gulf of Mexico. However, in some cases scheduled actions have been delayed because of litigation. One legal dispute, that between the Federal Government and the Atlantic coast states, was decided in favor of the United States by the Supreme Court on March 17, 1975. This decision places the boundary between state and federal jurisdiction on the Atlantic coast at the three mile limit.

The Department published in the Federal Register on March 26, 1975, a call for nominations in the mid-Atlantic area. Although no tentative sale date has been established, the usual period between a call for nominations and a sale is at least a year. The Department is also carrying out procedures in preparation for a proposed sale of 1.8 million acres in the Gulf of Alaska, and for a proposed sale of 1.6 million acres off Southern California.

In late 1974 the Department modified its OCS leasing goals. The goal of leasing ten million acres in 1975 changed to holding six lease sales per year in 1975 and subsequent years and holding lease sales in all frontier areas of the OCS by the end of 1978.

SUMMARY OF CURRENT LEASING PROCEDURES

The OCS leasing schedule issued by the Department of Interior in June and the areas involved are shown in figures 1 and 2. More detailed maps of proposed leasing area are set out in figures 3, 4, 5 and 6.

The following are the sequential steps and the average time intervals leading to an OCS lease sale decision.

Call for Nominations and Comments

From industry and from the public.

To provide a basis for determining the actual area to be investigated for a future possible lease sale.

Tract Selection

Follows the call for nominations and comments by about three months.

Defines the actual area on which a draft environmental impact statement will be prepared.

Draft Environmental Impact Statement

Follows the tract selection announcement by about three months.

Evaluates the impacts and examines the alternatives of a proposed specific leasing area.

Basic data are collected and examined which include the geology, climate, physical oceanography, biological environment, and natural phenomena unique to the specific area of the proposed sale.

Specific data include the rate and flow of tides and currents, air and water quality, seasonal temperatures and winds, the marine communities of plants and aquatic life, wildlife of any island landmass in the specific area, commercial and sport fishing, ship traffic, navigation, and military uses, beach oriented and other forms of recreation.

Public Hearings

Follows publication of the draft EIS by about two months.

Gives all interested parties (industry, environmental groups, State and local governments, educational institutions, the financial and business community, research organizations, labor, and the general public) an opportunity to record their views concerning the proposed sale.

Final Environmental Impact Statement

Follows the public hearings by about three months.

Reflects testimony from witnesses.

Provides data and additional information to help the Secretary of the Interior fully evaluate potential effects of the proposed sale, including aquatic resources, aesthetics, recreation, and historic and cultural values of the area which could be affected during the exploration, development, and operation phases of lease development.

Is submitted to the President's Council on Environmental Quality (CEQ).

Decision Whether To Hold a Sale

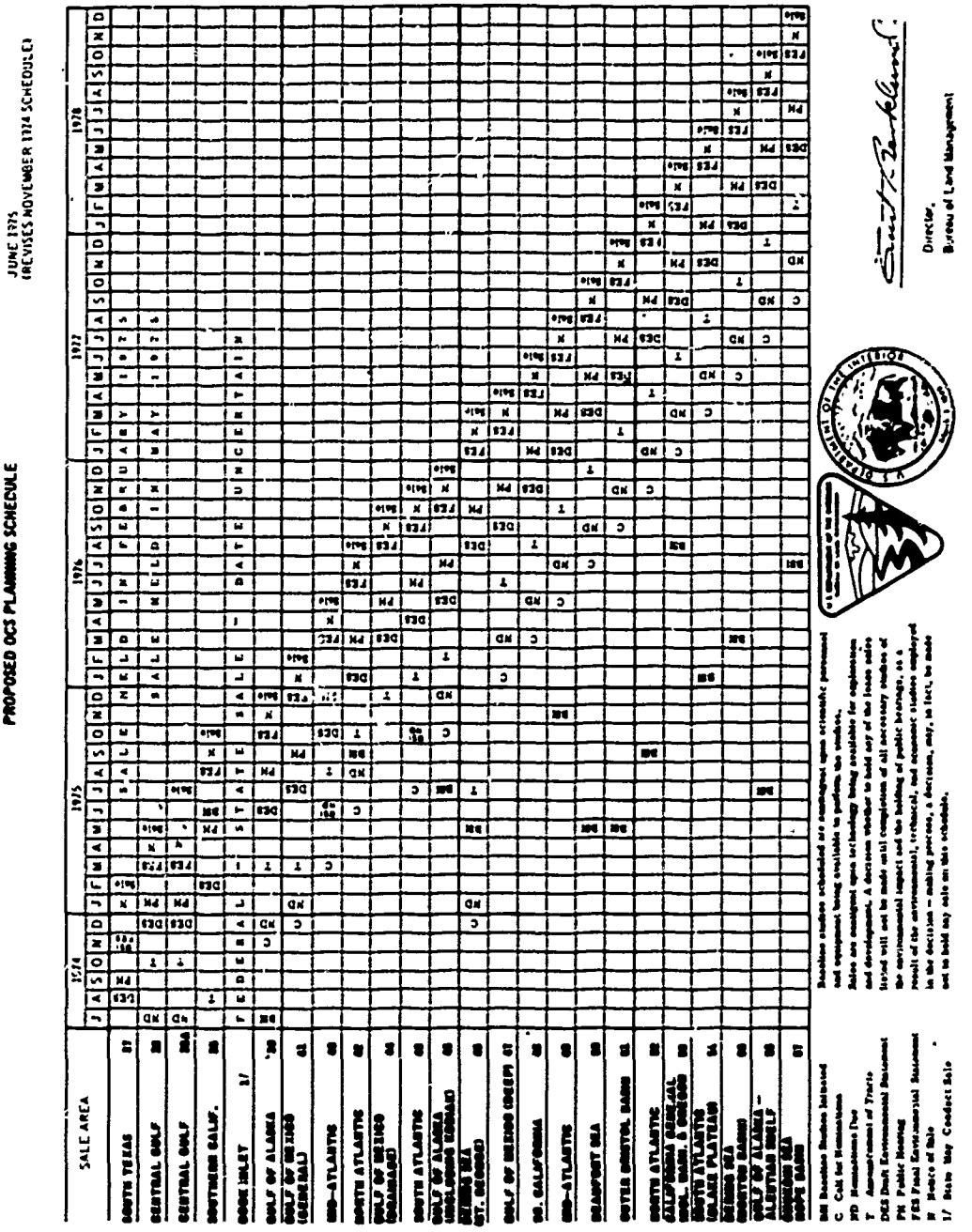
Follows at least 30 days after publication of the final EIS.

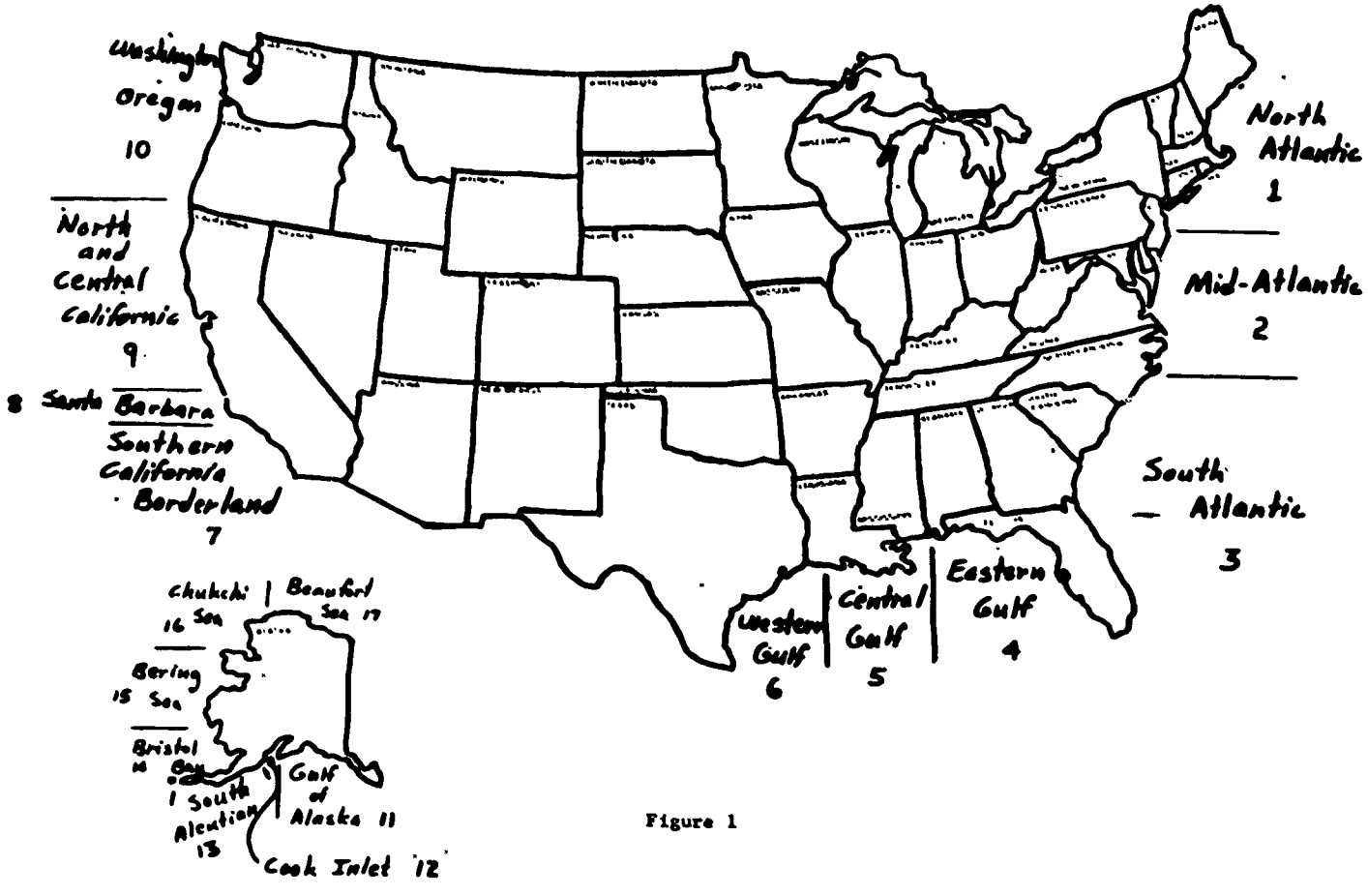
Secretary's decision may include specific environmental restrictions in the terms of lease sale and lease stipulations, or the decision may include deletion of certain tracts from the list of tracts to be offered for lease sale.

Sale

30 days after decision.

From the time a lease is awarded to a successful high bidder until actual wells are drilled, a deposit of crude oil or natural gas is discovered, and a production plan is made and approved, an average of two to three years may have elapsed.

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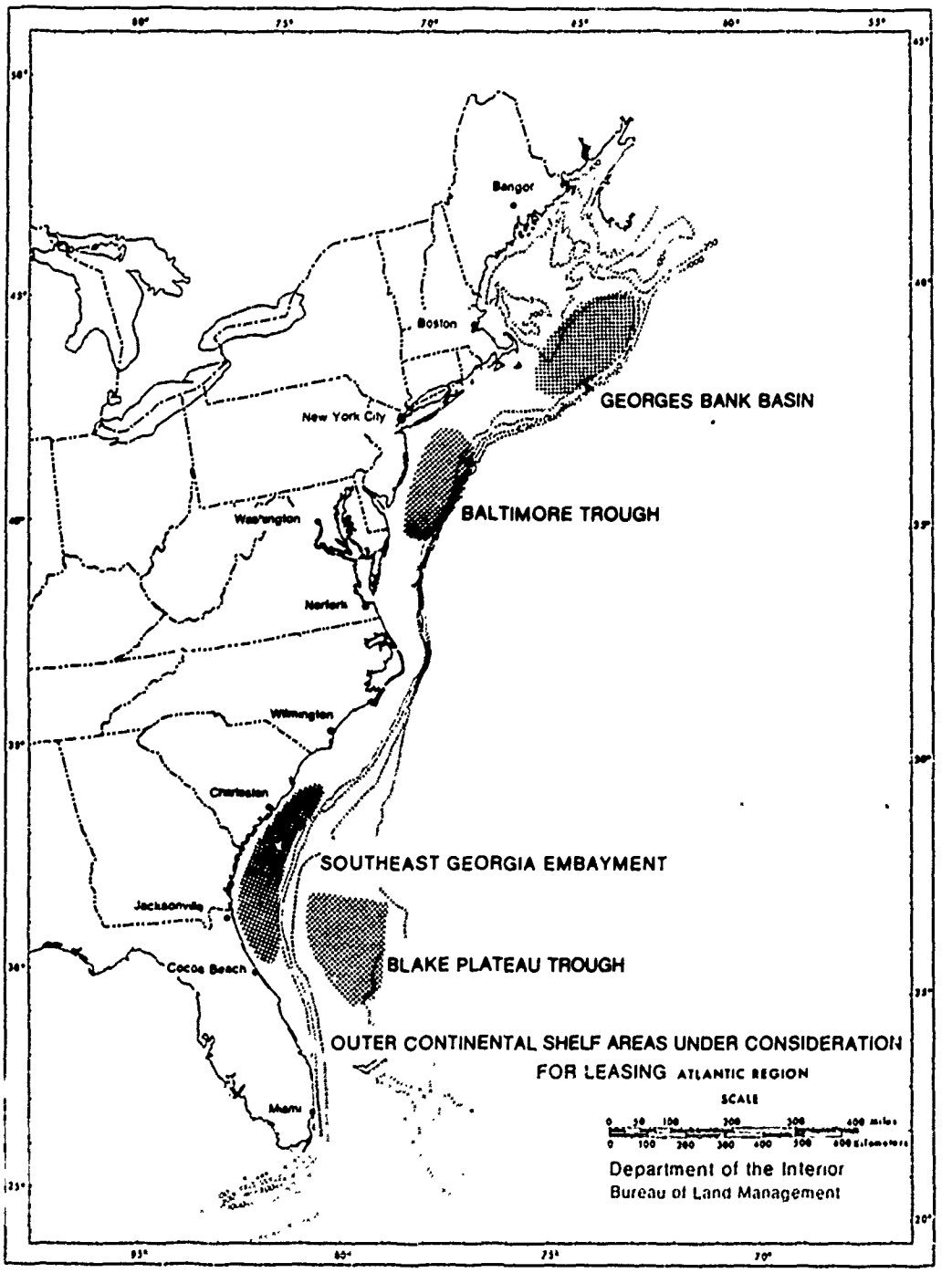
Bristol Bay 14
South Aleutian 13
Gulf of Alaska 11
Cook Inlet 12

Figure 1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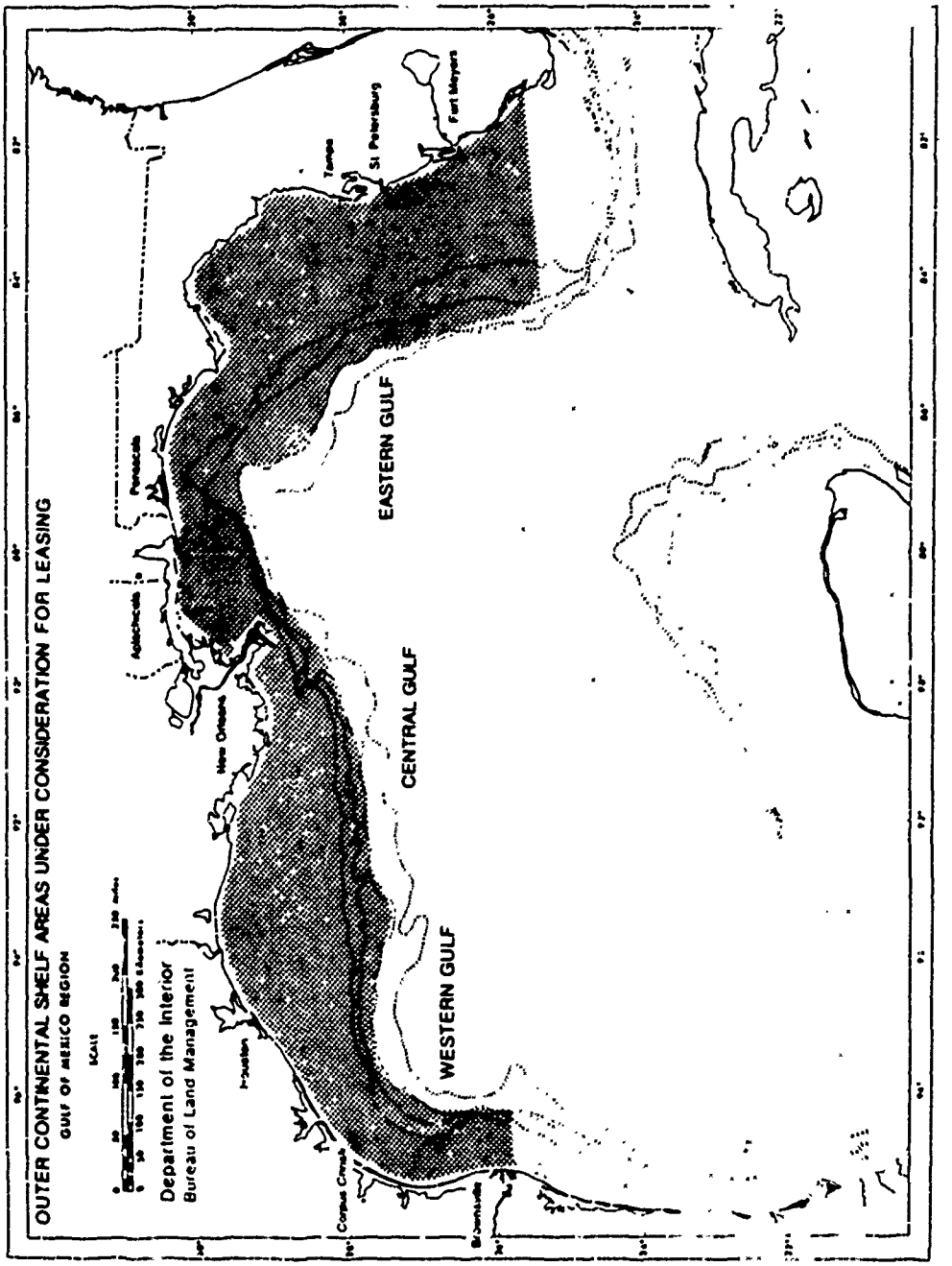
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Fort Meyers
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Corpus Christi
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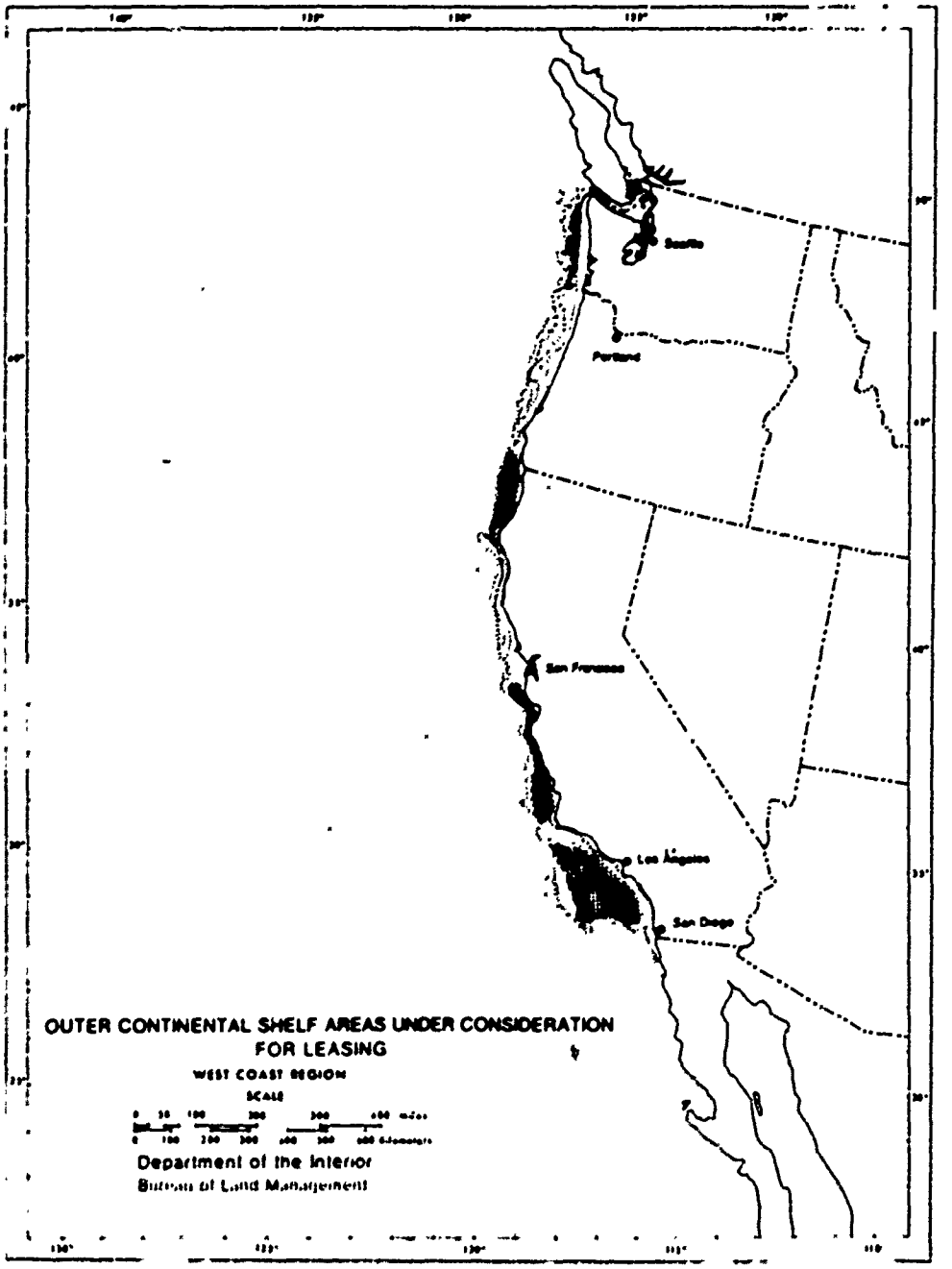
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FOR LEASING
WEST COAST REGION
SCALE
Department of the Interior
Bureau of Land Management

GENERAL ACCOUNTING OFFICE REPORTS ON CURRENT OCS LEASING PROGRAM AND PROCEDURES

In view of the great significance of Outer Continental Shelf oil and gas development, the General Accounting Office has been conducting an intense in depth study of the current leasing policies and procedures.

The Committee believes that all those concerned with revision of the Outer Continental Shelf Lands Act of 1953 should be aware of the very significant findings of the first two GAO reports. The digests of the reports follow:

Digest of the Report on Outlook for Federal Goals to Accelerate Leasing of Oil and Gas Resources on the Outer Continental Shelf by the Comptroller General of the United States, March 19, 1975

DIGEST

Why the review was made

Development of oil and gas resources on the Outer Continental Shelf is recognized as one way to lessen U.S. dependence on foreign energy supplies. However, there is considerable controversy over Department of the Interior plans for Shelf leasing.

This report, first of a series on Federal leasing policies and practices, focuses on how Interior determined its goal for accelerating leasing of oil and gas resources on the Shelf, how this goal is related to Project Independence, and constraints which may and constraints which may hinder its accomplishment.

Findings and conclusions

Until 1971 there was little orderly planned development of the Shelf. The Shelf oil and gas leasing program was influenced heavily by industry interest and the desire to generate revenues for the Treasury. (See p. 6.)

Federal leasing goals had changed significantly in less than 4 years. The leasing goal increased from 1 million acres in 1971 to 10 million acres in 1974—only 0.8 million acres less than the total acreage leased in the 20-year period of the Federal Shelf leasing program. (See p. 6.)

Interior officials indicate a softening in their earlier firm position to lease 10 million acres. At a November 1974 conference of Coastal States Governors, the Secretary of the Interior said that the Administration was "not wedded" to leasing 10 million acres in 1975, but "was wedded" to the idea of beginning leasing in the frontier areas, in addition to the Gulf of Mexico.

The Secretary stated that Interior must proceed expeditiously with the preparatory steps for six proposed offers in 1975. It is unclear at this time what amount of acreage would make up the six offers. No new acreage goals were announced for 1975 or subsequent years. An Interior official told GAO in January 1975 that Interior program personnel were still working toward a 10 million acre leasing goal.

Unrealistic leasing goal

Interior established the accelerated leasing goal of 10 million acres without carefully analyzing and considering several factors and problems affecting the goal's soundness.

GAO found that the goal was:

—Hastily conceived by Interior under pressures exerted by the energy crisis and the newly formed Federal Energy Administration;

—Developed with little input by the Interior operating levels and based on overly optimistic assumptions and inadequate data;

—Adopted by Interior policy officials despite opposition from program personnel; and

—Developed and adopted without adequate consideration of environmental impacts, national-regional supply-and-demand

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needs, or alternatives to large scale expansion of Shelf leasing. (See p. 4.)

Interior's analysis of production which could be expected from accelerated leasing was limited due to the tight response deadline set by Interior officials. At most, 2 weeks' time was spent drafting the accelerated leasing proposal which was announced by the President in January 1974. (See p. 8.)

Acreage leasing goals not related to Project Independence

Interior's decision to lease 10 million acres was reached before the Project Independence study was initiated in March 1974.

Although the study assumed that accelerated Shelf leasing would play a key role in providing future oil and gas supplies, the Project Independence production estimates were not tied to Interior's stated goal to lease 10 million acres in 1975 or to any other acreage goal. (See p. 12.)

Also, bases used in estimating production and the production estimates differ.

Interior's January 1974 estimates of production by 1985 were based on leasing 50 million acres during the 5-year period 1975–79, or an average of 10 million acres a year. The Project Independence production estimates were not based on acreage but on drilling estimates for each Shelf area.

GAO's rough calculations show that from 15 to 28 million acres would have to be leased *and* drilled by 1985 to satisfy the Project Independence assumptions. The total acreage leased would in all likelihood be higher than 15 to 28 million acres because a timelag generally exists between leasing and the start of drilling.

Interior estimated that oil production would reach 7 billion barrels a year by 1985. Compared with this projection, Project Independence crude oil production estimates were about five times lower.

Interior officials told GAO that revised production estimates given to the House Appropriations Subcommittee on Interior and Related Agencies in October 1974 were consistent with Project Independence projections. These projections, however, were based on a 1-year leasing program of 10 million acres in 1975 and are not comparable to Project Independence estimates which covered a 12-year period and assumed that unlimited acreage would be available for accelerated leasing.

Although lower than Interior's estimates, the Project Independence production estimates are based on optimistic production conditions.

For example, the estimates allow only a 1-year timelag between exploratory drilling and production, compared to industry estimates of 3 to 8 years in the Atlantic.

By changing the leadtime variables alone, GAO estimated that the 1985 production from the Atlantic—under optimistic conditions of 3 years' delay—would be about 126 million barrels, or 53 million barrels a year less than the Project Independence estimate. (See p. 13.)

Under the less optimistic estimate of 8 years' delay, 1985 production from the Atlantic would be 14 million barrels, or 165 million barrels less than the Project Independence estimate.

GAO believes that the Secretary of the Interior should clearly define Shelf leasing goals and specify how these goals will be met and how they relate to national energy goals and plans. (See p. 16.)

GAO believes that the real issue in defining leasing goals concerns the magnitude of a lasing program and not necessarily the number of acres. although traditionally this has been the principal indicator of magnitude. Without clear guidance as to the magnitude of a leasing program, GAO questions whether Government or industry planning can be effectively accomplished. (See p. 16.)

Constraints to expanded production

A number of studies have been made of availability of materials, equipment, manpower, capital, and other related services needed for accelerated exploration of the Shelf. The predicted importance and impact of reported shortages remain questionable.

However, GAO found agreement that existing and predicted shortages will to some degree limit the ability of industry to expand exploration and development of the Shelf. (See p. 30.)

Industry representatives told GAO that actions must be taken in several broad policy areas to minimize constraints to production, including:

—Implementation of a national energy policy which will be a focal point and provide guidance for an overall planning approach to leasing oil and gas and other energy resources.

—Removal of leasing uncertainties so that industry resources (manpower, equipment, materials, and capital) can be planned for and managed properly.

—A decision at an early date regarding the depletion allowance and price controls of oil and natural gas.

—Development of timely, efficient, and effective methods for environmental assessment and realistic assessment of tradeoff between energy needs and environmental hazards.

—Accelerated research to improve technology for exploration and production in deep water and more hostile environments of Alaska and other frontier areas. (See p. 25.)

Quality of Government's valuation program jeopardized by accelerated leasing goal

If projected leasing schedules are maintained, the Government's lease valuation program will be jeopardized.

The lower quality and/or lack of evaluation made necessary by inadequate staffing will mean increased reliance on bid-competition as the only means to insure that fair market value is received for leased resources. The Government's tract selection and valuation practices are inadequate even at much slower leasing rates. (See p. 25.)

Survey officials told GAO that there will be major problems trying to evaluate all the acreage tentatively planned for offer in May 1975 and indicated that their approach probably will be to first evaluate what appears to be the best prospective acreage and, if time is available, to evaluate the lower quality acreage. (See p. 26.)

In December 1974 Survey was experiencing delays in filling the authorized positions necessary for carrying out evaluation aspects for the lease offers. (See p 25.)

The main alternative to hiring is to contract for assistance to supplement the Government's valuation work. But, according to Survey, qualified contractors are straining to keep up with demand placed on

them by industry and their assistance may not be available for some time. (See p. 26.)

Survey has already experienced delays in receiving some data interpretations from contractors for recent offers. Further, by contracting out such interpretive work to companies doing business with industry on a day-to-day basis, objectivity of the results is seriously open to question. (See p. 26.)

The Secretary of the Interior should reconsider the accelerated Shelf leasing schedule in the light of Government and industry capabilities and possible alternatives to leasing in new Shelf areas as addressed in the Project Independence analysis and the President's subsequent national energy and economic proposals. (See p. 31.)

Prospects for industry response to accelerated leasing program

A common view of industry is that new or "virgin" Shelf areas should be leased as soon as possible because of their resource potential.

The prospects that a planned Gulf of Mexico lease offer scheduled for May 1975 will be sought vigorously by industry and contribute significantly to the success of the accelerated lease program are not encouraging because:

—Industry interest in tracts for these offers has been disappointing, and will continue the downward trend.

—The trend in bids per tract by industry for recent offers has also been downward.

—Interior and industry consider the potential resources which are considered to be primarily gas to be marginal. Industry argues this is due partially to the low price of federally controlled gas. (See p. 27.)

Glutting the market with large acreage offerings in the Gulf likely will continue to lower the average bid price an acre. However, these offerings are being scheduled at the present time, apparently because there are no other Shelf areas available for immediate leasing. (See p. 27.)

Industry interest for the initial offerings in the new frontier Shelf areas cannot be projected on the basis of recent trends in the Gulf of Mexico (See p. 27.)

The relatively low level of industry interest in the Gulf is the result of over 20 years' exploration during which areas with best potential have been offered and leased. The same trends could develop for the other Shelf areas over a comparable period of time. (See p. 27.)

Regardless of the general quality of tracts offered, industry has shown in recent offers that the most promising prospects will continue to attract high bids. (See p. 28.)

The eight largest petroleum companies are expected to secure a substantial share of the acreage to be leased in the initial offers of frontier acreage of the Atlantic and Alaska.

The smaller petroleum companies are not expected to be major competitors for the frontier Shelf areas because of high risks and costs associated with their exploration and development. (See p. 30.)

Recommendations

The Secretary of the Interior should:

—Clearly define Shelf leasing goals and specify how these goals will be met and how they relate to overall national energy goals and plans, and

—Reconsider the accelerated Shelf leasing schedule in the light of Government and industry capabilities and possible alternatives to leasing in new Shelf areas as addressed in the Project Independence analysis and the President's subsequent national energy and economic proposals.

Agency actions and unresolved issues

GAO reviewed Interior's draft comments and considered them in preparing this report. The Federal Energy Administration did not make their draft comments available for GAO's review. Final agency comments on this report were not received in time to be considered.

Matters for consideration by the Congress

This report contains information on a critical Federal policy decision regarding leasing of the Outer Continental Shelf, which has far reaching implications on the direction of future energy resources development. Early attention and resolution of the issues discussed in this report is important for the success of any program which may be established for increasing domestic oil and gas production. The Congress now has before it for consideration several major energy proposals related to these issues.

Digest of the Report on Outer Continental Shelf Oil and Gas Development—Improvements Needed in Determining Where to Lease and At What Dollar Value by the Comptroller General of the United States, June 30, 1975

DIGEST

Development of oil and gas resources on the Outer Continental Shelf is recognized as one way to lessen U.S. dependence on foreign energy supplies. Interior and the Federal Energy Administration indicate that much of the increase in future U.S. domestic oil and gas production will have to come from the Shelf.

GAO recommended that the Secretary of the Interior take steps to improve the Federal Government's programs for deciding where to lease potential offshore oil resources, and at what dollar value.

Recommendations broadly outlined below call for:

—Interior to direct an exploration program for a systematic planned appraisal of Outer Continental Shelf oil and gas resources, including selective stratigraphic test drilling in Shelf areas before leasing. (See pp. 15 and 35.)

—Industry involvement in resource appraisal through exploration permits and Government-financed exploration to insure implementation of federally planned efforts. (See pp. 15 and 35.)

—Federal regulations aimed at providing the Government and the general public with geotechnical information. (See pp. 15 and 35.)

—Procedures for periodic assessment of economic factors used in valuing resources and adjusting such factors on the basis of the most current information available. (See p. 36.)

—Pacing lease offers at a frequency which will permit Interior to adequately consider geotechnical data in its Shelf valuation programs. (See p. 36.)

—Establishing a test program to evaluate, offer, and lease entire geological structures as opposed to the present practice of leasing tracts. Unitization of exploration and development activities would be required for test purposes. (See p. 41.)

This report, second of a series on Federal leasing policies and practices concludes that the Federal Government's Shelf evaluation programs

—Are hindered by inadequate data and analysis,

—Do not reasonably insure that a fair market value return is received on lease offers of shelf oil and gas resources, and

—Are being jeopardized by an accelerated leasing pace.

Interior said it was studying all the issues presented in the report and while it saw positive features to implementing the recommendations it felt there were many drawbacks to the recommendations.

Interior agreed to withhold lease offers until it could adequately consider geotechnical data, and in April 1975 announced proposed regulations providing for availability of geotechnical data for Government and public use. (See p. 34.)

Interior is generally opposed to federally financed exploration including stratigraphic test drilling but it favors industry financing of such exploration. Also, Interior favors a benefit-cost analysis of structure leasing before proceeding with a test program. (See p. 14.)

GAO believes in a sound balanced approach to the development of the oil and gas resources on the Outer Continental Shelf. The Government's direction and financing are essential to insure that exploratory activities are sufficiently broad to implement a systematic plan for resource appraisal in the public interest. (See p. 13.)

GAO also believes a test program to evaluate, offer, and lease entire geological structures will allow the merits of a structure leasing proposal to be analyzed and evaluated.

Legislation now pending before the Congress deals with these issues and with expanding the Federal Government's role in developing the mineral resources of the Outer Continental Shelf. The major bills now before the Congress include S. 426, S. 521, and H.R. 6218. Matters discussed in this report should be of interest to the Congress in considering the proposed legislation.

IV. Committee Recommendation

The Committee on Interior and Insular Affairs in open business meeting on July 11 recommended that S. 521 be approved by the Senate.

V. Legislative History

S. 521 was introduced on February 3, 1975. As introduced, S. 521 was virtually identical to S. 3221, 93d Congress, which was passed by the Senate on September 18, 1974, by a 64–23 vote.

On March 14, 17 and 18 and April 8 and 9 joint hearings were held with the Committe on Commerce on S. 521 and a number of pending and interrelated bills to amend the Outer Continental Shelf Lands Act of 1953 and the Coastal Zone Management Act of 1972. These have

been printed as Outer Continental Shelf Lands Act Amendments and Coastal Zone Management Act Amendments (94–14, parts 1 and 2). The Committee also received a study from the Office of Technology Assessment—*An Analysis of the Feasibility of Separating Exploration from Production of Oil and Gas on the Outer Continental Shelf.* (May, 1975) The Committee has also had the benefit of two recent reports of the General Accounting Office—*Outlook for Federal Goals to Accelerate Leasing of Oil and Gas Resources of the Outer Continental Shelf* (March 19, 1975) and *Outer Continental Shelf Oil and Gas Development—Improvements Needed in Determining Where to Lease and at What Dollar Value* (June 30, 1975).

In 1974, hearings were held on S. 3221 on May 6, 7, 8 and 10. (Outer Continental Shelf Oil and Gas Development) Also, the Committee participated in the hearings conducted by the National Ocean Policy Study on the economic, environmental, and social impacts of development of the oil and gas resources of the Outer Continental Shelf. These took place on April 23, 24, 25, and May 2 and 22, 1974. A major focus of these hearings was the Council on Environmental Quality's study entitled, "OCS Oil and Gas—An Environmental Assessment", released April 18.

In addition, the Committee has, since the initiation of the National Fuels and Energy Policy Study, conducted several hearings dealing with OCS matters. These have been printed as Outer Continental Shelf Policy Issue (92–27, parts I–III); Federal Leasing and Disposal Issues (92–32); and Trends in Oil and Gas Exploration (92–33, parts I and II).

During the 91st Congress, the Committee's Special Subcommittee on Outer Continental Shelf made a report on Outer Continental Shelf policy issues—(Committee Print, December 21, 1970).

The Committee has also had the benefit of the publications of The National Ocean Policy Study relating to OCS development. These are: *Outer Continental Shelf Oil and Gas Development and the Coastal Zone* (November, 1974); *North Sea Oil and Gas: Impact of Development on the Coastal Zone* (October, 1974); and *Outer Continental Shelf Oil and Gas Leasing Off Southern California: Analysis of Issues* (November, 1974).

VI. Section-By-Section Analysis

Section 1 contains the short title and table of contents.

TITLE I. FINDINGS AND PURPOSES

Section 101 sets out a number of findings about the current and future energy supply situation, and the potential role of the oil and gas resources of the Outer Continental Shelf (OCS).

Section 102 states the purposes of the Act. These include increasing production of oil and gas from the Outer Continental Shelf in a manner which assures orderly resource development, protection of the environment, and receipt of fair market return for public resources and encouraging development of new technology to increase human safety and eliminate or reduce environmental damage.

TITLE II. INCREASED PRODUCTION OF OUTER CONTINENTAL SHELF ENERGY RESOURCES

This title contains a series of amendments to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331–43) (OCS Act).

SECTION 201—NATIONAL POLICY FOR OUTER CONTINENTAL SHELF

Section 201 amends Section 3 of the OCS Act to add a policy statement that OCS is held for all the people, and its resources should be made available for orderly development subject to environmental safeguards.

SECTION 202—NEW SECTION OF OUTER CONTINENTAL SHELF LANDS ACT

Section 202 adds 16 new sections to the OCS Act. These are:

SECTION 18—DEVELOPMENT OF OUTER CONTINENTAL SHELF LEASING PROGRAM

This section establishes a process which will permit the Secretary to weigh the environmental risks against the potential benefits from making the oil and gas available to meet national energy needs.

Subsection 18(a) directs the Secretary to prepare a 5-year leasing program. It sets out policies to be followed in preparing the program including orderly development of energy resources, environmental protection, receipt of fair market value, public participation, and intergovernmental coordination.

The leasing program should display the information for all interested Federal, State and local government officials, the oil and gas industry, and the general public.

Subsection 18(b) requires that the program include estimates of the appropriations and staffing required to prepare the necessary environmental impact statements, obtain, analyze or interpret resource data, including environmental baseline studies and any other information needed to carry out the law including supervision of all operations to assure compliance. The Committee intends that these estimates represent the Secretary's best judgment of actual needs rather than the views of the Office of Management and Budget as to what funding levels are appropriate for inclusion in the President's Budget.

Subsection 18(c) requires the inclusion in the environmental impact statement on the leasing program of an assessment by the Secretary of the relative significance of the probable oil and gas resources of each area proposed to be offered for lease in meeting national demands, the most likely rate of exploration and development that is expected to occur if the areas are leased, and the relative environmental hazard of each area. The Committee recognizes that the Secretary cannot determine these factors with a great degree of precision. However, an expression of his best judgment based on available information should be very helpful in balancing the conflicting values involved during the decision-making process.

Subsection 18(d) directs the Secretary to establish procedures for receipt and consideration of nominations for areas to be offered for lease or to be excluded from leasing, for public notice of and participation in development of the leasing program, for review by State and local governments which may be impacted by the proposed leasing, and for coordination of the program with management programs established pursuant to the Coastal Zone Management Act of 1972. These procedures will be applicable to any revision or reapproval of the leasing program.

The Secretary uses a nomination process at the present time. The Committee wants to be sure that this form of industry and public participation in the leasing program is continued.

Subsection 18 (e) calls for publication of a proposed leasing program in the Federal Register and its submission to the Congress, along with a draft environmental impact statement, within two years after enactment of this section.

Subsection 18(f) provides that after the leasing program has been approved by the Secretary or after June 30, 1977, whichever comes first, no OCS leases may be issued unless they are for areas included in the approved leasing program. The Committee believes that the 50-year program should be adopted as soon as possible. At the same time, we recognize that this will take some time and that leasing should continue during this time. Two years should be ample time to develop the program.

Subsection 18(g) provides that the Secretary may revise and reapprove the leasing program at any time and he must review and reapprove the leasing program at least once each year. The requirement for annual reapproval is designed to assure that the program fully reflects information and changing conditions. Obviously, substantial changes in the program may be required in some years, while in others there may be little or no change.

Subsection 18(h) authorizes the Secretary to obtain from public sources or to purchase from private sources, any surveys, data, reports, or other information (including interpretations of such data, surveys, reports, or other information) which may be necessary to assist him in preparing environment impact statements and making other evaluations required by this Act. The Secretary must maintain the confidentiality of all properietary data or information for such period of time as is agreed to by the parties. This confidentiality requirement is designed to allow the Secretary to negotiate for the purchase of data on the basis that it will be kept confidential for as long as the seller wishes. Requiring the public release of all purchased data at any particular time would tend to lead data owners to refuse to sell the data to the Secretary. This provision allows the Secretary and the owner of the information to work out a mutually acceptable arrangement. It is also the intent of the Committee that the Secretary will avoid duplication of data collection efforts wherever possible.

Subsection 18(i) authorizes and directs the heads of all Federal departments or agencies to provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program.

SECTION 19—FEDERAL OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM

Subsection 19(a) directs the Secretary to conduct a survey program regarding oil and gas resources of the Outer Continental Shelf. The program will provide information about the probable location, extent, and characteristics of such resources in order to provide a basis for (1) development and revision of the leasing program required by section 18 of the Act, (2) greater and better informed competitive interest by potential producers in the oil and gas resources of the Outer Continental Shelf, (3) more informed decisions regarding the value of public resources and revenues to be expected from leasing them, and (4) assisting State and local governments in assessing the impacts of OCS development.

The Committee believes that the government must have better information about the resources it owns than it has had in the past. Publication of this information should be helpful to potential entrants into the OCS oil and gas development industry, particularly those with less capital to risk than the large major oil companies.

As part of the survey program, Subsection 19(b) authorizes the Secretary to contract for, or purchase the results of or, where the required information is not available from commercial sources, conduct seismic, geomagnetic, gravitational, geophysical, or geochemical investigations, and to contract for or purchase the results of stratigraphic drilling. The Committee believes that in most instances the Secretary can acquire the information required for the survey program from private industry.

Subsection 19(c) directs the Secretary to prepare and publish and keep current a series of detailed topographic, geological, and geophysical maps of and reports about the Outer Continental Shelf, based on nonproprietary data, which shall include, but not necessarily be limited to, the results of seismic, gravitational, and magnetic surveys on an appropriate grid spacing to define the general topography, geology, and geophysical characteristics of the area.

The Committee believes that these maps and reports should be very valuable to all persons interested in OCS oil and gas development. In order to be sure that once the survey program is underway the maps and reports are available to potential lessees and other interested persons, this subsection requires publication of the maps no later than six months prior to the last day for submission of bids for any areas of the Outer Continental Shelf scheduled for lease on or after June 30, 1977. The Committee intends that the topographic maps be prepared by the National Oceanic and Atmospheric Administration, National Ocean Survey. The Secretary of the Interior, would simply provide for publication.

Subsection 19(d) provides that within six months after enactment of this section, the Secretary shall submit to Congress a plan for conducting the information gathering programs required by this section. This plan will identify the areas to be surveyed and mapped during the first five years of the programs and estimates of the appropriations and staffing required.

Subsection 19(e) provides that information about the program be included in the Secretary's annual report of activity under the OCS Lands Act.

Subsection 19(f) provides that the Secretary will not have to prepare an environmental impact statement before taking actions to carry out the information gathering program.

Subsection 19(g) authorizes appropriations to carry out the program in fiscal years 1975 and 1976. The Committee intends to review the program and enact additional authorization legislation for future years.

Subsection 19(h) provides that any person holding an oil and gas lease shall provide the Secretary with any existing data (excluding interpretations of such data) about the oil or gas resources in the area subject to the lease. All proprietary data or information will be kept confidential until the Secretary determines that public availability of such proprietary data or information would not damage the competitive position of the lessee. The Committee does not intend that this provision be applied to leases issued before enactment of S. 521.

Subsection 19(i) provides that the Secretary shall make available to the public all information obtained pursuant to subsection (b) of this section. He shall, however, maintain confidentiality of proprietary data or information.

Subsection 19(j) requires all Federal agencies to provide the Secretary with information he requires for the enforcement of this act, with appropriate safeguard for confidentiality.

However the committee does not intend by this subsection to amend existing statutes regarding the disclosure of information, such as those governing disclosures of information submitted to the Internal Revenue Service.

The Committee believes that users of public resources should furnish resource information to the government. However, the Committee recognizes the competitive value of proprietary information. This subsection is designed to balance the competing interests involved.

SECTION 20—SAFETY REGULATIONS FOR OIL AND GAS OPERATIONS

Subsection 20(a) establishes a policy that the Secretary review the safety of operations related to the improved safety in OCS operations, and promulgate regulations therefor.

Subsection 20(b) provides that such regulations be promulgated within one year after the date of enactment after a review of existing regulations by the National Academy of Engineering.

The bill assigns responsibility for promulgating safety regulations to the Secretary of the Interior. The Committee feels that, to the extent that it is practical to do so, regulations governing activities performed from an artificial island, fixed structure, or mobile drilling platform while in the drilling mode, directly related to the exploration, development or production of oil or national gas in the Outer Continental Shelf should be consolidated and promulgated under the authority of one agency. The Committee recognizes however, that other agencies have existing responsibilities for certain aspects of operations in the

Outer Continental Shelf and have developed expertise within their fields. Nothing in this section is intended to eliminate or diminish any authority under any other Federal statute or any other agency.

The Committee fully expects the Secretary will consult with any agency having an interest in safe operations in the Outer Continental Shelf prior to promulgating regulations. However, in view of the extent of their responsibilities, the bill specifically requires the concurrance and advice of the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating in the development, revision, and promulgation of safety regulations under this section.

These regulations must call for use of best available technology when the potential effect of malfunctions on public health, safety, or the environment would be significant.

The Committee believes that requiring use of best available technology is essential to assure the highest degree of safety in OCS operations. However, the Committee does not intend that installed equipment must be replaced with every minor technological improvement. The Committee also recognizes that there may be more than one "best" way to achieve a particular objective or do a particular job.

The Committee is aware of the role of the U.S. Coast Guard in regard to vessel safety. This program begins at the design stage and continues through supervision of construction and the operational lifetime of the vessel, including investigation of marine casualities. It covers manning and equipment requirements, certifying the vessels permitted route and service, and, in the case of tank vessels, the grade and quantity of cargo which may be carried. This program currently covers mobile drilling units and support vessels engaged in operations in the Outer Continental Shelf. The Committee recognizes that these mobile drilling units and vessels are not restricted in their operations to the Outer Continental Shelf and are commonly employed worldwide. A separate set of regulations governing these vessels, and drilling units while not in the drilling mode, while operating in the Outer Continental Shelf would not be practical and it is not intended that the existing regulatory program of the Coast Guard in this area be changed.

This section is not intended to diminish the authority of the Secretary of Transportation to establish and enforce pipeline safety standards and regulations on the Outer Continental Shelf. In this connection, the Committee has reviewed the report on safety standards and monitoring of pipelines on Federal lands and the Outer Continental Shelf which the Secretary of Transportation has submitted in accordance with section 21 (b) and (c) of the Deepwater Port Act of 1974. The Committee fully expects the Secretary of Transportation to exercise his various existing authorities on the Outer Continental Shelf and on lands beneath navigable waters within State boundaries, as outlined in that report, to issue and enforce regulations for offshore pipelines from the flange at a production facility or production platform downstream to the shore.

SECTION 21—RESEARCH AND DEVELOPMENT

Subsection 21(a) authorizes and directs the Secretary to carry out a research and development program designed to improve the safety

of operations related to development of OCS oil and gas resources where he determines that such research and development is not being adequately conducted by any other public or private entity.

The Committee does not want the Secretary to get involved in a research and development program which duplicates work being done by private industry, or another government agency. However, it is clear that there are needs for new technology which are not being met. Where there are gaps in ongoing efforts, this provision authorizes the Secretary to fill them.

Subsection 21(b) directs the Secretary, with the concurrence of the Secretary of the department in which the Coast Guard is operating, to establish equipment and performance standards for oil spill cleanup plans and operations. Such standards shall be coordinated with the National Oil and Hazardous Substances Pollution Contingency Plan. The Committee is aware that the Secretary has already developed procedures for oil spill cleanup. This subsection does not require him to start all over again, but rather to update the existing program.

Under Subsection 21(c) the Secretary, in cooperation with the Secretary of the Navy and the Director of the National Institutes of Health, will conduct studies of underwater diving techniques and equipment suitable for protection of human safety at depths greater than those where such diving now takes place.

The Committee is aware that the Navy is conducting diving studies at the present time. Work on oil platform submersibles is being done by the Manned Undersea Science and Technology Office of the National Oceanic and Atmospheric Administration. The expected increase in OCS operations in deep water makes it imperative that this work be continued and expanded if necessary to assure diver safety.

The Committee is aware of the efforts of the U.S. Coast Guard in the development of methods for containing and cleaning up oil spills. Their expertise in this field is well recognized. The assistance of the Coast Guard has been requested by foreign governments in recent supertanker incidents such as the METULA grounding in the Straits of Magellan and the SHOWA MARU grounding near Singapore. The inclusion of containment and cleanup of oil spills within the research and development program authorized by this section is not intended to limit in any way the program being carried on by the Coast Guard but is intended to ensure that no aspect of this critical area is overlooked. It may be that there are oil spill problems peculiar to offshore drilling operations that are not being covered by the Coast Guard's research programs. Similarly, the Committee recognizes that problems related to the safe construction and operation of undersea pipelines are being investigated by the U.S. Coast Guard incident to its responsibilities for Deepwater Ports, and the Office of Pipeline Safety. The Committee intends to closely examine research and development programs undertaken pursuant to this section to ensure that there is no duplication of efforts.

SECTION 22—ENFORCEMENT OF SAFETY REGULATIONS; INSPECTIONS

Subsection 22(a) directs the Secretary and the Secretary of the department in which the Coast Guard is operating to regularly inspect all operations authorized pursuant to this Act and strictly enforce safety regulations promulgated pursuant to this Act and other appli-

cable laws and regulations relating to public health, safety, and environmental protection. It also requires holders of leases to allow access to any inspector promptly and provide any requested documents and records that are pertinent to public health, safety, or environmental protection.

The subsection also requires physical observation by an inspector of the installation or testing at least once each year of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and periodic onsite inspection without advance notice to the lessee to assure compliance with public health, safety, or environmental protection regulations.

The Committee expects that the Departments of the Interior and Transportation will enter into a cooperative agreement which will clearly delineate the specific responsibilities of each agency.

The Secretary also must investigate and report on all major fires and major oil spillage occurring as a result of operations pursuant to this Act.

Subsection 22(b) provides that the Secretary shall consider any allegation from any person of the existence of a violation of any safety regulations issued under this Act. The Secretary must answer such allegation no later than ninety days after receipt thereof, stating whether or not such alleged violations exist and, if so, what action has been taken.

This provision is designed to allow any interested person who believes the safety regulations are being violated to trigger an investigation by the Secretary. In most cases this form of citizen involvement would be more effective than legal action.

SECTION 23—LIABILITY FOR OIL SPILLS

Subsection 23(a) requires any person in charge of any operations in the Outer Continental Shelf, as soon as he has knowledge of a discharge or spillage of oil from an operation, to notify immediately the United States Coast Guard. Violation of this subsection is subject to a fine of up to $10,000.

Subsection 23(b) is patterned after the tanker oil spill liability provisions of the Trans-Alaska Pipeline Authorization Act of 1973 and the Deepwater Ports Act.

Subsection 23(b)(1) makes the holder of a lease or right-of-way issued or maintained under this Act and the Offshore Oil Pollution Settlements Fund established by this subsection strictly liable without regard to fault and without regard to ownership of any adversely affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by any damaged party for subsistence or economic purposes. The holder is liable for all damages, sustained by any person as a result of discharges of oil or gas from any operation authorized under this Act if such damages occurred (A) within the territory of the United States, Canada, or Mexico or (B) in or on waters within two hundred nautical miles of the baseline of the United States, Canada, or Mexico from which the territorial sea of the United States, Canada, or Mexico is measured, or (C) within one hundred nautical miles of any operation authorized under this Act.

The Committee included damages in Canada and Mexico in order to protect the interests of our neighbors.

Subsection 23(b)(2) provides three exceptions to the strict liability rule.

Strict liability is not imposed on the holder or the fund if the holder or the fund proves that the damage was caused by an act of war. Strict liability is not imposed on the holder if the holder proves that the damage was caused by the negligence of the United States or other governmental agency. Strict liability is not imposed with respect to the claim of a damaged person if the holder or the fund proves that the damage was caused by the negligence or intentional act of such person.

Strict liability for all claims out of any one incident is unlimited. The holder is liable for the first $7 million and the fund is liable for the balance.

In any case where liability without regard to fault is imposed pursuant to this subsection, the rules of subrogation shall apply in accordance with the State law.

The Offshore Oil Pollution Settlements Fund is administered by the holders of leases issued under this Act under regulations prescribed by the Secretary. The fund is subject to annual audit by the Comptroller General. A fee of 2½ cents per barrel of oil produced pursuant to any lease issued or maintained under this Act is paid into the fund. Costs of administration are paid from the fund. If the fund is unable to satisfy a claim, the fund may borrow the money needed to satisfy the claim from any commercial credit source, at the lowest available rate of interest.

Notice of the damage must be given to the Secretary within three years following the date on which the damage occurred. The collection of amounts for the fund ceases when $200 million has been accumulated, but is renewed when the accumulation in the fund falls below $200 million.

Subsection 23(c) states that the Coast Guard shall be responsible for the clean-up of oil spills on the OCS. For the purpose of such clean-up the Coast Guard may draw upon money in the Offshore Oil Pollution Settlements Fund established by this Act.

Subsection 23(d) requires all holders of leases issued or maintained under this Act to establish and maintain evidence of financial responsibility of not less than $7 million. It spells out ways of establishing such responsibility.

Subsection 23(e) provides that Section 23 does not supersede section 311 of the Federal Water Pollution Control Act Amendments of 1972 or preempt the field of strict liability or to enlarge or diminish the authority of any State to impose additional requirements.

The Committee did not want to override the cleanup requirements of the 1972 Act except to provide unlimited liability for cost of cleaning up OCS oil spills. The Committee also did not want to preclude the States from imposing more stringent requirements if they wished to do so.

The Committee anticipates and hopes that a comprehensive strict liability law governing all oil spills into the ocean will be enacted by the 94th Congress. The provisions of such a bill would replace Section 23.

SECTION 24—COASTAL STATE FUND

Subsection 24(a) establishes a Coastal States Fund in the Treasury. The Secretary is directed to make grants from the Fund to the coastal States impacted by anticipated or actual oil and gas production to assist them to ameliorate adverse environmental effects and control secondary social and economic impacts associated with the development of Federal energy resources in, or on the Outer Continental Shelf adjacent to those States. The grants may be used for planning, construction of public facilities, and provision of public services, and such other activities as the Secretary may prescribe by regulations. The grants must be used for activities directly related to such environmental effects and social and economic impacts. In order to be eligible for grants from the Fund, the coastal State must establish pollution containment and cleanup systems for pollution from oil and gas development activities on its submerged lands.

The Committee believes that the Federal Government should assist the States in ameliorating adverse environmental impacts and controlling secondary economic and social impacts associated with OCS oil and gas development.

The Committee rejected the concept of coastal States receiving a fixed share of Federal OCS revenues. However, the Committee recognizes that Federal decisions to develop OCS resources can have impacts on the States. It is the Committee's intent that grants under this section shall be adequate to compensate impacted coastal States for the full costs of any adverse environmental effects and social and economic impacts caused by Federal offshore oil and gas exploration, development, and production.

Subsection 24(c) gives the Secretary broad discretion to determine the amount and purpose of the grants under guidelines for grant eligibility established by the Secretary of Commerce. The Committee also expects that States will share payments with units of general purpose local government impacted by OCS development. The Secretary must coordinate the grants with management programs established under the Coastal Zone Management Act of 1972. The Committee expects the Secretary to work closely with the Secretary of Commerce in developing criteria for grants and establishing coordination procedures.

Subsections (d) and (e) establish two methods for distribution of the impact aid. Subsection (d) provides for automatic distribution of one-half of the fund ($100 million) each year based on a six-factor formula.

The formula is specifically designed to provide funds to coastal states in so-called "frontier areas"—those areas where there has been no Outer Continental Shelf oil and gas development in the past—in addition to assisting States where OCS production already takes place.

The Committee feels it imperative that the Federal Government provide assistance to such states so that they could do the necessary planning and provide the necessary public services *before*, or as they were impacted rather than incur the impacts and only be able to provide adequate facilities long after they were needed.

The six factors—each of which is based on activities which will undoubtedly lead to some onshore impacts are—

(1) the proportion of Outer Continental Shelf acreage leased off the shores of such State in that year to the total Outer Continental Shelf acreage leased in that year;

(2) the proportion of the number of wells drilled on the Outer Continental Shelf off the shores of such State in that year to the total number of wells drilled on the Outer Continental Shelf in that year;

(3) the proportion of the number of persons living in such State in that year who are employed in Outer Continental Shelf activities by Outer Continental Shelf lessees and their contractors to the total number of persons employed in Outer Continental Shelf activities in that year by Outer Continental Shelf lessees and their contractors;

(4) the proportion of the volume of oil and gas produced from Federal leases on the Outer Continental Shelf and first landed in such State in that year to the total volume of oil and gas produced from Federal leases on the Outer Continental Shelf and first landed in the United States in that year;

(5) the proportion of the volume of oil and gas produced from Federal leases on the Outer Continental Shelf off the shores of such State in that year to the total volume of oil and gas produced from Federal leases on the Outer Continental Shelf in that year; and

(6) the proportion of onshore capital investment in such State by Outer Continental Shelf lessees, their contractors, and persons who first purchase, receive or expect to purchase or receive oil or gas produced in that year from Federal leases on the Outer Continental Shelf to the total such onshore investment in all coastal States made by such persons in that year.

Subsection 24(e) provides that the other half of the fund will be distributed to those States which demonstrate to the Secretary of Commerce net adverse impacts which have not been compensated under subsection (d). This would include funds needed for advance planning designed to deal with anticipated impacts of future OCS activity.

Subsection 24(f) provides that ten per centum of the Federal revenues from the Outer Continental Shelf Lands Act shall be paid into the Fund. However, the total amount paid into the Fund shall not exceed $200 million per year.

The Committee believes that the $200 million per year ceiling on the Fund should provide an adequate source of grants for the foreseeable future.

In order to make some funds available for grants immediately, subsection 24(g) authorizes a direct appropriation to the Fund of $100 million. This amount will be repaid out of future OCS revenues allocated to the Fund.

SECTION 25—CITIZEN SUITS

Section 25 provides for citizen participation in the enforcement of the Act by civil law suits (1) against any person who is alleged to be in violation of the Act or the regulations, or any lease or permit issued under the Act; or (2) against the Secretary for alleged failure to perform a nondiscretionary act or duty.

55-582 O - 75 - 3

Suits may be brought by "any person having an interest which is or may be adversely affected." The Committee intends that this includes persons who meet the requirements for standing to sue set out by the Supreme Court in *Sierra Club* v. *Morton* (405 U.S. 727 (1972)).

Subsection (b) requires that no action for violation of the law may be started for 60 days after written notice under oath of the alleged violation to the alleged violator and the Secretary. If the Secretary begins a civil action against the violation, no court action could take place on the citizen's suit. The 60-day waiting period does not apply when the violation or failure to act constitutes an imminent threat to the plaintiff's health or safety or would immediately affect a legal interest of the plaintiff. This provision is designed to give the Secretary and the alleged violator an opportunity to stop any violation thus making court proceedings unnecessary.

Subsection (d) provides that the court may award costs of litigation including reasonable attorney's fees to any party and require a bond where a temporary restraining order or preliminary injunction is sought.

The Committee believes that citizen suits can play an important role in assuring that lessees comply with the law. The possibility of a citizen suit should help to keep program administrators "on their toes."

SECTION 26—PROMOTION OF COMPETITION

Section 26 directs the Secretary to prepare a report with recommendations for promoting competition and maximizing production and revenues from the leasing of Outer Continental Shelf lands. The report is due within one year and will include a plan for implementing recommended administrative changes and drafts of any proposed legislation. The report will consider (1) other competitive bidding systems permitted under present law as compared to the bonus bidding system; (2) evaluation of alternative bidding systems not permitted under present law; (3) measures to ease entry of new competitors; and (4) measures to increase supply to independent refiners and distributors.

The Committee believes that it would be desirable to increase the competition in the OCS oil and gas development industry. The Committee recognizes that OCS development requires large capital expenditures which tend to limit participation. The study required by this section is designed to assist the Committee in making further changes in the Outer Continental Shelf Lands Act.

SECTION 27—ENFORCEMENT AND PENALTIES

Subsection 27(a) authorizes the Attorney General to institute, at the request of the Secretary, civil actions for restraining orders or injunctions or other appropriate remedies to enforce the Act or any regulation or order issued under it.

Subsection 27(b) provides for a civil penalty to be assessed against any person who after notice of failure to comply and opportunity for a hearing continues to fail to comply with the Act or any regulation or order issued under it. The maximum penalty is $5,000 per day.

Subsection 27(c) provides criminal penalties for knowing and willful violations of any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect public health, safety, or the environment or conserve natural resources. There are also criminal penalties for any person who knowingly and willfully makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act, or who knowingly and willfully falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or knowingly and willfully reveals any data or information required to be kept confidential by this Act.

The criminal penalty is a fine not more than $100,000, or imprisonment for not more than one year, or both.

Subsection 27(d) provides for application of the criminal penalties against corporate officials when the violator is a corporation or other business entity.

Subsection 27(e) states that the remedies prescribed in this section may be exercised concurrently and are in addition to any other remedies afforded by any other law or regulation.

SECTION 28—ENVIRONMENTAL BASELINE AND MONITORING STUDIES

Subsection 28(a) requires that prior to approval of a development and production plan, the Secretary, in consultation with the Administrator of the National Oceanic and Atmospheric Administration of the Department of Commerce, shall make a study of the area involved to establish a baseline of those critical parameters of the Outer Continental Shelf environment which may be affected by oil and gas development.

The Committee believes that these environmental baseline studies are essential to determining the actual environmental impacts of oil and gas development. The baselines studies may be made after leases are issued but must be completed prior to the time drilling begins.

Subsection (b) requires monitoring of production areas in a manner designed to provide time-series data which can be compared with previously collected data for the purpose of identifying any significant changes.

Subsection (c) calls for cooperation with the States in planning and carrying out the studies. This would include issuance of contracts to appropriate State agencies or universities.

The Committee wants the studies mandated by the section to be cooperative efforts of all Federal and State government agencies with capability. This would include NOAA, the Geological Survey, and the Bureau of Land Management.

SECTION 29—ENVIRONMENTAL IMPACT STATEMENTS

This section specifies additional requirements for the writing of environmental impact statements pursuant to this Act; such considerations relate primarily to on-shore economic and secondary growth impacts of OCS development.

SECTION 30—REGIONAL OUTER CONTINENTAL SHELF ADVISORY BOARDS

This section authorizes the Governor of coastal States to establish regional boards to advise the Secretary in the development of the OCS; specifies observers for such boards from various Federal agencies; and sets forth those actions under the Act on which the advice of these boards is required. These include: development of the leasing program required by section 18; approval of development and production plans required to be prepared by section 5 of this Act (as amended) in section 206; implementation of environmental baseline and monitoring studies; and the environmental impact statements prepared in the course of implementation of the Act.

Subsection (d) provides that if a regional advisory board or a Governor of a potentially affected coastal State makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or on a proposed development and production plan, the Secretary shall accept such recommendations from the regional advisory board or Governor, unless he determines they are not consistent with national security or overriding national interests.

The subsection further provides that any decision of the Secretary in accepting or rejecting the recommendation of a regional advisory board or a Governor for the development of the OCS will not be subject to judicial review. The Committee does not believe that any State should have a veto power over OCS oil and gas development. The Committee fully expects, however, that the advice of the board and/or the Governor be given full and careful consideration, and incorporated insofar as possible into the ultimate decision of the Secretary.

SECTION 31—JUDICIAL REVIEW

This section is designed to expedite any judicial review of actions taken under the Act.

Subsection (a) provides for judicial review of decisions made by the Secretary with regard to the leasing program (except as provided in subsection 30(d)) only in the U.S. Court of Appeals for the District of Columbia Circuit.

Subsection (b) provides for judicial review of Secretarial decisions on development and production plans only in the appropriate Federal circuit court.

SECTION 32—PLANNING INFORMATION TO COASTAL STATES

This section provides that after each lease sale the Secretary provide to each affected coastal state information in his possession which would assist them in planning for onshore impacts of potential OCS development.

SECTION 33—LIMITATIONS ON EXPORT

This section limits any possible exports of OCS oil and gas. It allows such exports only in cases of exchange agreements, efficiency, or national interest, when such exports do not add to dependency in foreign oil and when the President makes a specific finding to this effect. The

President must submit his findings and recommendations to Congress for approval or disapproval. The Congress has 60 days to approve or disapprove such a measure. This is the procedure adopted in Section 28(u) of the Mineral Leasing Act of 1920 (30 U.S.C. 185(u)) as amended in 1973.

SECTION 203—REVISION OF LEASE TERMS

Section 203 revises the terms under which the Secretary of the Interior may offer oil and gas leases on the Outer Continental Shelf.

New Bidding Systems

Under existing law the Secretary is permitted to offer oil and gas leases on the basis of either (1) a cash bonus bid with a royalty fixed at no less than 12½% of the gross revenue from the lease, or (2) on the basis of a royalty rate bid with a fixed cash bonus. Since the OCS Lands Act was approved in 1953, virtually all OCS leases have been offered for cash bonus bids with a royalty rate fixed at 16⅔ of the gross value of production. The Department of the Interior held a small scale test of royalty bidding in September, 1974.

Section 203 revises subsection 8(a) of the OCS Lands Act by adding a variety of leasing options including royalty bidding, net profit sharing, and undivided working interest bidding for entire structures. In some options no cash bonus would be required and in others, the bonus would be returned to the operator to help finance exploration.

The basic thrust of all these new options is to reduce the reliance on large front-end cash bonuses as the means of obtaining a fair price for the public's property. The Committee wants to authorize lease allocation systems that would encourage the widest possible participation in competitive lease sales consistent with receipt by the public of fair market value for its resources. Testimony before this Committee and elsewhere has revealed general acceptance of the proposition that high bonus bids have created a barrier to the entry of small and medium size oil firms to the OCS arena. The Committee believes that net profits share and other arrangements can be effective in shifting government revenue away from initial bonuses and into deferred payments made out of a leaseholder's profits based on actual production of oil or gas.

The Secretary will establish accounting procedures for calculations of net profits and publish the terms and conditions of each lease sale far enough in advance to allow potential bidders to properly determine the amount they wish to bid.

New paragraph (6) of subsection 8(a) limits the use of the cash bonus bid with fixed royalty systems to not more than 50 per centum of the area offered for lease each year in the regions where there has been no previous development of oil and gas.

However, if during the first year after enactment, the Secretary finds that compliance with this limitation would delay OCS development, the Secretary may exceed the limit after reporting to Congress. After the first year, the limitation could be exceeded only if either House of Congress did not disapprove the Secretary's finding.

The Committee included this limitation to assure that the new leasing systems would be tried. At the same time, the Committee recognizes that there could be administrative problems involved in implementing new concepts and procedures, so it provided the "escape hatch" outlined above.

It also provides for a study of the benefits and costs associated with conducting lease sales using the undivided working interest cash bonus bid systems authorized by subparagraphs (G) and (H) of paragraph (2) of new subsection (a). One of the undivided working interest systems and one alternative system will be tested at sales held in an area previously undeveloped for oil and gas during the first year after enactment of this Act. In the second year after enactment an additional test of one of such systems and one other alternative system are to be conducted. The results of such tests are to be incorporated into an overall analysis of these systems and this analysis shall be provided to Congress no later than twelve months after the sale date.

Paragraph (7) of subsection (a) provides for the taking in kind of U.S. royalty oil, and the preferential sale of such oil to OCS leaseholders.

Paragraph (8) prohibits joint bidding on bids for an undivided working interest in the development of any OCS tract.

Paragraphs (9) and (10) authorizes the Secretary to pay back to lessees of entire structures or traps under the undivided working interest system, the bonus money received on a matching basis. That is, for each dollar the lessee spends for exploration, he can receive a dollar back from the Secretary. It is the Committee's hope that this system will encourage rapid exploration. Since this system provides a return to the government of not less than 60% of the lessee's net profit, the Committee believes that the public interest will be protected.

Other Lease Terms

Under existing law, all OCS oil and gas leases are for a primary term of five years. As amended by Section 203, Subsection 8(b) of the OCS Lands Act would permit the Secretary to issue leases with a primary term of up to ten years.

The purpose of the increase in permissible maximum primary lease term is to encourage exploration and development in areas of unusually deep water or adverse weather conditions, where the five year period may be insufficient for both exploration and the mobilization of new technology called for in the event of a discovery.

SECTION 204—DISPOSITION OF FEDERAL ROYALTY OIL

Section 204 further amends Section 8 of the OCS Lands Act by requiring that royalty and net profits share oil produced from all leases granted after the effective date of the amendment be offered by the Government at a competitive auction. The physical quantity represented by the Government's net profit share is determined by dividing the net profit due the United States attributable to oil by its unit value at the wellhead.

The existing law (Section 5(a)(1)) authorizes sales of royalty oil and gas "at not less than market value" but sets out no other guidelines.

The Secretary has been allocating royalty oil to "small refiners", as defined in Department regulations.

The purpose of the amendment is to create a free market in crude petroleum. However, the Committee was anxious to insure that independent refiners not be denied access to OCS crude. To this end, Section 203 directs the Secretary to limit participation in sales where such limitation is necessary to assure adequate supplies of oil at equitable prices to independent refiners. The Secretary can define the term "independent refiner" by regulation. The Committee intends that the term apply only to those refiners not part of an organization which produces crude petroleum. The Secretary could impose a size limitation in terms of refining capacity if he deemed that desirable.

SECTION 205—ANNUAL REPORT

Section 205 amends Section 15 of the OCS Lands Act to provide for a comprehensive annual report by the Secretary to the Congress on the entire Outer Continental Shelf program. It specifies that the report include: a detailing of all moneys received and expended, and of all leasing, development, and production activities; a summary of management, supervision, and enforcement activities; a summary of grants made from the Coastal State Fund; and recommendations to the Congress for improvements in management, safety and amount of production in leasing and operations in the Outer Continental Shelf and for resolution of jurisdictional conflicts or ambiguities.

This report will aid the Congress in performing its oversight functions and should be very useful to anyone interested in the OCS program.

SECTION 206.—OUTER CONTINENTAL SHELF DEVELOPMENT AND PROTECTION PLAN

Section 206 adds three new subsections to Section 5 of the OCS Lands Act.

This is one of the most important provisions of S. 521. It provides a means to separate the Federal decision to allow private industry to explore for oil and gas from the Federal decision to allow development and production to proceed if the lessee finds oil or gas.

Paragraph (1) of new subsection (d) provides that prior to development and production, a lessee shall submit to the Secretary for approval, and to the Governors of the affected coastal States and the appropriate regional boards established pursuant to the Act for review, a Development and Production Plan. The plan may apply to more than one lease.

Paragraphs (2) and (3) indicate how this requirement applies both to leases issued after enactment of the Act and to leases issued prior to enactment.

Paragraph (4) specifies that the plan shall include, to the extent available at the time of its submission, certain information about the nature and extent of the proposed development—both on the lease area and onshore.

Paragraph (5) requires that all proposed plans shall include a commitment on the part of the lessee to produce at a rate no less than the

maximum efficient rate for the duration of production covered by the plan. If the Secretary finds that production at such rate would be uneconomical for the lessee or would violate other provisions of this Act or for other good cause shown, he can waive the requirement to produce at the maximum efficient rate.

Paragraph (6) provides that if the Secretary determines that the proposed plan makes adequate provision for safe operations on the Outer Continental Shelf, he shall tentatively approve those portions of the plan dealing with operations on the Outer Continental Shelf and transmit it, together with any draft environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969, to the Governors of the affected coastal States, any appropriate regional Outer Continental Shelf Advisory Board, and any appropriate interstate regional entity created under the authority of the Coastal Zone Management Act (as amended), for their review and comment and make the plan available to the general public not less than sixty days prior to public hearings required by paragraph (7).

The Committee intends that the provisions of the National Environmental Policy Act of 1919 shall apply and that therefore an environmental impact statement will be prepared only if approval of the plan would be a "major Federal action significantly affecting the quality of the human environment".

Paragraph (8) provides that the Secretary shall require modification of a proposed plan if he determines that the lessee has failed to make adequate provision in the plan for safe operations on the lease area or for protection of the marine or coastal environment, including protection of the coastal zone from avoidable adverse impacts. The Secretary may not require any modification which would be inconsistent with a State coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) or with any valid exercise of authority by the State involved in any political subdivision thereof.

This provision is intended to preserve the rights of States and local governments to regulate land use within their jurisdiction.

The Secretary can disapprove a plan only (1) if the lessee fails to demonstrate that he can comply with the requirements of this Act and other applicable Federal laws, or (2) if because of extraordinary geologic conditions in the lease area; extraordinary resource values in the marine or coastal environment, or other extraordinary circumstances, the proposed plan cannot be modified to insure a safe operation.

This provision reflects the Committee's view that Federal-State-industry cooperation can be expected to resolve almost every dispute over proposed development and production plans. Once a lease has been issued it is highly unlikely that an acceptable plan cannot eventually be agreed upon.

Periodic review of the plan in light of changes in available information, and other onshore or offshore conditions affecting or impacted by the development and production is required where the review indicates that the plan should be revised to meet the requirements of this paragraph, the Secretary is directed to require such revision.

Paragraph (9) authorizes the Secretary to approve revisions of an approved plan if he determines that such revision will lead to greater

recovery of oil and gas, improve the efficiency, safety, and environmental protection of the recovery operation, or is the only means available to avoid substantial economic hardship on the lessee, to the extent consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary deems to be significant must be reviewed as provided in paragraphs (6) and (7) of this subsection.

Paragraph (10) provides that failure to comply with an approved plan shall terminate the lease.

The new subsection 5(c) prohibits flaring of natural gas from any well after the date of enactment of S. 521 unless the Secretary finds that there is no practicable way to obtain production or to conduct testing or workover operations without flaring.

The Committee believes that unnecessary waste of this valuable natural resource must not be permitted.

New subsection (f) provides that each lessee shall design and immediately implement an exploratory, development and production program to obtain maximum efficient rates of production from the lands subject to such lease as soon as practicable.

The Committee recognizes that there must be some flexibility in the degree of detail required in these plans. It expects that the Secretary will require exploration activity to start within a specified time. If production is established the plan would need to be revised.

SECTION 207—GEOLOGICAL AND GEOPHYSICAL EXPLORATION

Section 207 amends Section 11 of the OCS Lands Act which authorizes the Secretary to permit geological and geophysical exploration in the Outer Continental Shelf.

The revised Section 11 would require that all permits for such explorations contain terms and conditions designed to (1) prevent interference with actual operations under any OCS lease and (2) prevent or minimize environmental damage. The permittee would be required to furnish the Secretary with copies of all data (including geological, geophysical, and geochemical data, well logs, and drill core analyses) obtained during such exploration. The Secretary must maintain the confidentiality of all data so obtained until after the areas involved have been leased or until such time as he determines that making the data available to the public would not damage the competitive position of the permittee, which ever comes later.

The Committee believes that requiring the permittee to give the data to the representative of the property owner (i.e., the Secretary) is an appropriate condition for allowing the exploration. At the same time, the Committee believes that the confidentiality requirement will protect the competitive interest of the explorer.

SECTION 208—ENFORCEMENT

Section 208 is a technical amendment to delete material from Subsection 5(a)(2) which duplicates the new Section 27 which would be added by S. 521.

SECTION 209—LAWS APPLICABLE TO OUTER CONTINENTAL SHELF

Paragraph (2) of Subsection 4(a) of the OCS Lands Act provides that:

> To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of the effective date of this Act are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the Outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the Outer Continental Shelf. . . .

The phrase "as of the effective date of this Act" has been interpreted to freeze the applicable State law as of August 7, 1953. The Committee believes that whenever State law is applied on the Outer Continental Shelf it should be the law in effect at the time of application. Section 209 achieves this by deleting the reference to the effective date of the OCS Lands Act.

SECTION 210—DEFINITIONS

Section 210 defines the terms "coastal zone", "coastal state", "marine environment", "coastal environment", "exploration", "development", "production", and "maximum efficient rate of production".

The definition of "exploration" is designed to identify the point beyond which activity under a lease cannot proceed without an approved or tentatively approved development and production plan.

TITLE III. MISCELLANEOUS PROVISIONS

SECTION 301—PIPELINE SAFETY AND OPERATION

Section 301 directs the Interstate Commerce Commission and the Secretary of Transportation to report on the adequacy for transportation facilities for OCS oil and gas.

SECTION 302—REVIEW OF SHUT-IN OR FLARING WELLS

Section 302 directs the Secretary of the Interior to report to the Comptroller General and the Congress within 6 months on all shut-in oil and gas wells and all wells flaring natural gas. The Comptroller General is to review and evaluate the reasons for allowing the wells to be shut-in or to flare gas within 6 months after receiving the Secretary's report. The Committee is aware that the Secretary and the Federal Power Commission have collected considerable data on this subject already. It is not intended that this job should be repeated as long as the existing reports contain the information needed by the Comptroller General.

SECTION 303—RELATIONSHIP TO EXISTING LAW

Section 303 provides for consistency of this Act with the National Environmental Policy Act, the Coastal Zone Management Act and the Mining and Mineral Policy Act.

SECTION 304—SEVERABILITY

Section 304 is a standard severability clause.

VII. Tabulation of Votes Cast in Committee

Pursuant to Section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of voters of the Committee during consideration of S. 521:

1. During the Committee's consideration of S. 521 a number of voice votes and formal roll call votes were taken on amendments. These votes were taken in open business meeting and, because they were previously announced by the Committee in accord with the provisions of Section 133(b), it is not necessary that they be tabulated in the Committee report.

2. S. 521 was ordered favorably reported to the Senate on a roll call vote of 11 yeas and 3 nays. The vote was as follows:

Jackson	Yea	Fannin	Nay
Church	Yea	Hansen	Nay
Metcalf	Yea	Hatfield	Yea
Johnston	Yea	McClure	Yea
Abourezk	Yea	Bartlett	Nay
Haskell	Yea		
Glenn	Yea		
Stone	Yea		
Bumpers	Yea		

VIII. Cost Estimates

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 the Committee provides the following estimates of cost:

Enactment of S. 521 will entail some increase of Federal costs for intensive management and inspection of OCS operations. The Committee believes that these costs should be offset by increased revenues to the government from the increased oil and gas development on the OCS.

There will be an added cost of $200 million per year for the coastal state impact fund which would be established by the new section 24.

IX. Executive Communications

In addition to an official report from the Secretary of the Interior, the Committee received formal testimony from the Administrator of the Environmental Protection Agency, the Chairman of the Coun-

cil on Environmental Quality and the Administrator of the National Oceanic and Atmospheric Administration. The report and the statements follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department concerning several bills which deal with the energy resources of the Outer Continental Shelf, S. 521, S. 426, S. 81, S. 130, and S. 470. Also included herein are our views on S. 586, which is before the Committee.

We recommend that none of these bills be enacted, since appropriate action with respect to OCS energy resources can be taken under existing law.

Our present energy needs require a strong program to develop the oil and gas resources of the Outer Continental Shelf, where this can be done with reasonable protection of environmental values and without other seriously undesirable impacts. More specifically, we must move ahead with exploration, leasing and production on those frontier areas of the OCS where the environmental risks are acceptable. In carrying out this program, we fully appreciate the need to meet the legitimate concerns of affected individuals and organizations. The program will be carried out in close cooperation with coastal States in their planning for possible increased local development.

I. THE BILLS

S. 521 is similar to S. 3221 as passed by the Senate in the 93rd Congress, except that it does not contain provisions similar to those in sections 303 and 304 of S. 3221 dealing with an oil spill liability study and a fuel stamp study.

S. 521 would require the Secretary of the Interior to undertake a program of promoting petroleum production from the Outer Continental Shelf subject to new environmental and safety requirements. The Outer Continental Shelf Lands Act would be amended to declare that United States policy is to make available for leasing as soon as practicable all OCS lands determined to have geologically favorable potential and be capable of development without undue environmental harm. To carry out this policy the Secretary would be required to develop a leasing program, specifying the size, timing and location of leasing activity, that will best meet energy needs for the 10-year period following approval. The program would be subject to certain criteria directed toward overall resource management, geographic decentralization of leasing, receipt of fair market value for public resources and assuring that to the maximum extent practicable areas with less environmental hazard are to be leased first. The Secretary would have to prepare estimates of appropriations and staffing and an environmental impact statement, and would have to coordinate the program with management programs being developed in the States or approved

pursuant to the Coastal Zone Management Act of 1972. An open nomination procedure would be established for areas to be leased or excluded from leasing. The bill specifies matters to be included in the environmental impact statement for leased areas and authorizes the Secretary to obtain all information from public or private sources necessary to make evaluations required by the Act. It would also authorize setting aside in certain areas National Strategic Energy Reserve status.

The Secretary would also be required to undertake a major OCS oil and gas survey. The Secretary, in cooperation with the Secretary of Commerce, would be required to make extensive topographic, geological, and geophysical maps available 6 months prior to the submission of bids. No part of the survey and mapping program would be considered a major Federal action under the National Environmental Policy Act of 1969 except drilling exploratory wells. S. 521 also requires that the Department of the Interior and the National Oceanographic and Atmospheric Administration do environmental baseline and monitoring studies prior to any new leasing on the OCS. The Secretary would also be authorized to obtain from any lessee any existing data, excluding interpretation of such data, about the oil and gas resources in the area subject to the lease. Persons holding leases or permits for oil or gas exploration or development on the OCS would be required to provide the Secretary with pertinent information concerning the area which the lease or permit covers. In addition, the Secretary would be required to carry out a research and development program to improve technology related to development of OCS oil and gas resources.

The bill provides for a safety and environmental protection program which would include (i) safety and environmental standards for equipment used in OCS exploration, development and production, (ii) equipment and performance standards for oil spill cleanup plans and operations, and (iii) a safety regulation enforcement program which includes specified Federal inspection of OCS operations.

Issuance and continuance of leases would be conditioned upon compliance with such regulations. The bill would also require all new oil and gas operations to use the best available technology whenever failure of equipment would have substantial effect on public health, safety, or the environment.

A standard of strict liability for oil spill damages would be imposed on leaseholders except where damage is caused by war or the negligence of the Government or by the negligent or intentional action of the damaged party. The bill would also establish an Offshore Oil Pollution Settlements Fund which would provide for the payment of all damages sustained by any person as the result of discharge of oil or gas from any operations authorized under this Act. The maximum amount of strict liability for claims arising out of one incident would not exceed $100 million.

Section 8 of the Outer Continental Shelf Lands Act would be revised to specify that bidding for OCS leases on a "net profit" basis is allowed, in addition to bonus bidding, but royalty bidding would be excluded. The bill would also permit the Secretary to sell Federal royalty oil by competitive bidding and would prohibit him from continuing leases

which would otherwise terminate, unless there is a reasonable assurance of production from such leases within the period of an extension. Additional provisions are included to assure full development and maximum production from OCS leases, including a General Accounting Office audit of shut-in wells, Secretarial unitization or cooperation or pooling agreements, and review authority for development plans.

Ten percent of OCS revenues would be paid into a newly created Coastal States Fund, subject to a $200 million per year maximum. The Secretary would be authorized to make grants from the Fund to coastal States to ameliorate adverse environmental effects and control secondary social and economic impacts associated with development of Federal OCS energy resources. The Secretary of Commerce would establish requirements for grant eligibility, and such grants would be administered in proportion to the effects and impacts of the offshore oil and gas exploration, development, and production on such States.

The bill would also amend section 8 of the Outer Continental Shelf Lands Act, as amended, by adding a provision giving the Governor of an adjacent State the authority to request postponement of lease sales for up to 3 years, if he determines that such sale will result in adverse environmental or economic impact or other damage to the State. The Secretary could provide for a shorter postponement or deny the request for the postponement and the Governor of the aggrieved State would have a right of appeal from any decision made by the Secretary to the National Coastal Resources Appeals Board established pursuant to the bill.

The Secretary would also be authorized to negotiate interim agreements to permit energy resource development prior to final judicial resolution of disputes relating to such resources. The President would be authorized to establish procedures for resolution of international or interstate boundary disputes.

S. 426, the "OCS Land Act Amendments of 1975," has as its purpose the establishment of a policy for the management of oil and natural gas for the OCS and the protection of the marine and coastal environment. The bill is similar to S. 521. The Secretary would be required to develop a leasing program, specifying the size, timing and location of leasing activity that will best meet energy needs for the 10-year period following approval, subject to similar criteria. However, S. 426 requires the submission to Congress of a leasing and development plan within 90 days of offering a tract for lease, and places a moratorium on all leasing where there has been no previous development or where it would be environmentally hazardous until a Federal program is implemented and Congress has concurred by silence with the development plan.

Like S. 521, S. 426 also authorizes an open nomination procedure for areas to be leased or excluded from leasing. The procedure would be carried out by the National Oceanographic and Atmospheric Administration. The bill also specified matters to be included in the environmental impact statement and authorizes the collection of information necessary to make evaluation.

S. 426 would also revise the bidding procedures on OCS leases to include, among other things, net profit bidding. Like S. 521, it would provide for research and development and the issuance of safety reg-

ulations for production within the OCS and it has similar oil spill liability provisions. The bill would also establish a comprehensive exploration program with no exploratory drilling to be done by any one other than the U.S. Government prior to the award of a lease, and with the requirement of an Environmental Impact Statement. S. 426 is also similar with respect to provisions for safety (except greater authority is given to the Coast Guard), strict liability, an Offshore Oil Pollution Settlements Fund, and a Coastal State Fund. There is also the same citizen suit provision as S. 521. S. 426 also provides a similar provision giving authority to a Governor of a coastal State to request postponement of lease sales for up to 3 years, but provides that conflicts between the Secretary and coastal State's Governors be resolved by Congress rather than an Appeals Board.

S. 426 differs from S. 521 in that it provides minimum criteria for content of the required leasing and development plan including certification of its consistency with provisions of the Coastal Zone Management Act; requires the proposed leasing and development plan to be submitted to the Governors of affected coastal States 60 days prior to submitting the plan to Congress, requires that no geological or geophysical exploration can be done without a permit issued by the Secretary, and requires new safety regulations within a year of enactment of the Act.

S. 81 would amend section 8 of the Outer Continental Shelf Lands Act to permit the Governor of any coastal State to request postponement of any lease sale for a maximum of three years. S. 81 is similar to section 210 of S. 521 except that it applies only to coastal States whose lands are within 300 statute miles of the lands to be leased. The Secretary of the Interior could grant the request for postponement, provide for a shorter postponement or deny the request. The Governor could then appeal the Secretary's decision to a newly created National Coastal Resources Appeals Board within the Executive Office of the President which could overrule the Secretary.

S. 130 amends the Outer Continental Shelf Lands Act (43 U.S.C. 1338) to provide that 25 percent of all rentals, royalties, or other sums paid to the Secretary of the Interior or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf after the date of enactment would be paid to the State adjacent to the portion of the OCS covered by the lease. Another 25 percent would be equally divided among the other States and the remaining 50 percent would be deposited in the U.S. Treasury and credited to miscellaneous receipts.

S. 470 would amend the Coastal Zone Management Act of 1972 to suspend Federal oil and gas leasing in areas seaward of State coastal zones until such date as a coastal zone management program is approved or June 30, 1976, whichever comes first.

S. 586 amends the Coastal Zone Management Act of 1972 to provide coastal States adequate assistance to study, plan for, manage, control, ameliorate the impact of energy facilities siting and energy resource development or production which affects directly or indirectly the coastal zone.

S. 586 requires this Department to issue an annual report to Congress, including a description of economic, environmental, and social

impacts of facility siting and energy development and production and a description and evaluation of regional planning mechanism, developed by coastal States. It also requires all applicants for permits and leases to certify that their conduct is consistent with any approved State management program.

S. 586 authorizes $200 million for fiscal year 1976 and each four succeeding fiscal years for the Coastal Impact Fund. The Secretary of the Treasury is authorized to make grants for studying, planning for, managing, controlling, and ameliorating social and economic consequences of development, production, or siting and for construction of public facilities or provision of public services necessary to those coastal States likely to be significantly and adversely impacted by development, production or siting of energy facilities. Grants are to be coordinated with State coastal zone management programs, and funds are to be allocated in proportion to anticipated or actual impact.

S. 586 also authorizes $5 million for fiscal year 1976 and for each three succeeding fiscal years, for interstate coordination grants and for short term coastal research assistance.

Under S. 586 the scope of the Coastal Zone Management Act of 1972 is extended to beaches and islands, and dates for increased appropriations are extended.

II. DISCUSSION

Existing legislation provides a satisfactory framework for carrying out the essential objectives of most of these bills, and we are moving toward accomplishing them. The existing Outer Continental Shelf Lands Act permits substantial latitude for adjustment to changing circumstances and our program for development of the OCS can be fully carried out under the present law. Significant changes in that law could seriously delay achievement of the degree of national energy independence which we believe is vital.

Discussed more specifically below are some of the more important aspects in which we believe provisions of these bills are either unnecessary or undesirable.

A. Scope of leasing program—Lease terms.

Provisions limiting or otherwise modifying the scope of the OCS leasing program are undesirable. For example, a goal such as that implied in S. 521 of leasing all available prospectively productive OCS lands as soon as practicable is of uncertain significance. To the extent that it implies development at a rate which may involve undesirable environmental or other effects, we oppose it. Beyond this, we are proceeding with dispatch on a leasing program which would make prospects available in all frontier areas by the end of 1978. Actual sales would, of course, depend upon receipt of acceptable bids.

Conversely, the requirement that the most environmentally safe areas should be leased first is too restrictive. Environmental hazards must be balanced by potential resource values. On an area-wide basis, leasing would be appropriate wherever the potential value of the energy resource is expected to exceed environmental costs. Leasing on particular tracts may be unacceptable for environmental reasons, but this would be determined on the basis of an environmental impact statement.

A related consideration is the specific study or other requirements found in several of the bills which are prerequisites to leasing. S. 426, for example, would place a moratorium on leasing of areas of the OCS where there has been no previous development or where conditions are hazardous, until the Federal exploratory program required by the bill has been completed. The following areas are listd as areas to which the moratorium would be applicable: Georges Bank, Baltimore Canyon, Blake Plateau, the portion of the Florida Embayment in the Atlantic Ocean, Southern California including the Santa Barbara Channel, and the Gulf of Alaska. Present law adequately provides for this through the National Environmental Policy Act and the Outer Continental Shelf Lands Act, and our policy is to expand our capability rapidly for determining all the facts necessary to a balanced leasing program. The exploratory program required is such a departure from present procedures that considerable time would surely elapse before the new system could be established. In times of energy shortage, this delay is unwise. As more fully discussed below, we also agree that consultation with coastal States is appropriate, but requiring consent of their governors is unwise in view of the broader national aspects of the OCS program.

S. 426 would require approval of and operation under a development plan as a term of the lease. The lessee's plan would have to be consistent with the Secretary's broad development and leasing plan for the area and failure to comply with the plan would terminate the lease. Although a plan could be modified, this is too stringent a requirement because termination would be automatic. Lesser penalties will frequently be more appropriate to deal with failure to follow the plan. Termination is not necessarily in the public interest.

In contrast to the changes provided by these bills, present law provides sufficient flexibility for an appropriate balancing of energy and environmental factors. Our concern is to improve the leasing system within the present framework and in this connection the Department recently has adopted a two-tier system for designating tracts to be leased. Under it industry nominates promising areas and the public at large is invited to comment on environmental and other considerations view, the Department then specifies areas to be leased. In this regard, bearing on tract selection. Based on this and its own independent review, the Department then specifies areas to be leased. In this regard, we note that the CEQ study has concluded that leasing can be carried out in the areas included in that study if appropriate safety and environmental requirements are adhered to in each area. We intend to require of the industry whatever design criteria and practices are necessary to meet the CEQ concerns.

We currently require lessees to submit development plans subsequent to the exploratory phase of the lease. We are seeking further to integrate these procedures with the coastal zone management programs being developed by the coastal States.

We do not believe it appropriate to amend the OCS Act to require further consistency or coordination with coastal zone management programs. In this regard, it should be noted that section 102(1) of S. 426 the definition of "coastal zone" differs from the definition of this term in the Coastal Zone Management Act. This could cause much needless confusion.

B. Receipt of fair market value for Federal OCS oil and gas.

The OCS Lands Act presently provides that leasing of OCS lands shall be by competitive sealed bidding on the basis of a cash bonus bid with a fixed royalty on a bid royalty with a fixed bonus, but in no instance can the royalty be less than 12.5 percent. The leases are for a 5-year term. These provisions, coupled with the Department's geological experience and the means for acquiring such information, are sufficiently flexible for institution of the most desirable alternative leasing systems to promote competition while serving the public's interest in receiving a fair return for its resources and using those resources in the most responsible manner. Several general issues bearing on receipt of fair market value are discussed below.

1. Geographic and Geophysical Information. Assuring that the private sector has access to information needed to make intelligent decisions with respect to OCS energy resources is essential. Equally important is the desirability of maintaining a resource information base which allows the Government adequate knowledge of the quality and extent of the resources available for sale.

The Interior Department presently has the necessary authority and capability to pursue these objectives. The U.S. Geological Survey has access under the present OCS Lands Act to the same geophysical data as lease bidders, and has the means for gathering substantially more offshore data than bidders. We will publish shortly proposed rules to require more rapid data disclosure. The Department also now has adequate authority to undertake stratigraphic drilling in frontier areas.

Under the rules we have proposed, geophysical data collected under exploration permits would be made public within 10 years of whenever a lease is relinquished, whichever period is less. The Department could release data earlier based on a decision that this is necessary for the proper development of the field or area. Deep stratigraphic tests would be released 5 years after date of completion or 60 days after issuance of the first Federal lease within 50 geographic miles of the drill site. Geologic data would be released to the public in 6 months.

It would not be appropriate to amend the Outer Continental Shelf Lands Act at this time to require the development of specific informational programs. The survey and mapping program required by both S. 521 and S. 426 would, for example, impact quite heavily and perhaps undesirably on our OCS program. These bills would require that a survey of OCS oil and gas resources be conducted and that the Secretary maintain a current series of detailed topographic, geological, and geophysical maps of and reports about the OCS. A plan for conducting the prescribed survey and mapping programs would have to be submitted to Congress within 6 months after enactment. A progress report to Congress would be required on an annual basis. Conducting such an extensive mapping and survey effort would be extremely difficult and would not likely produce results justifying the effort. Again, our present program undertaken pursuant to existing authority and modified as needs change, should be satisfactory.

2. Lease Offering and Conditions. Current Departmental practices and studies are designed to assure that the lease auction of OCS resource are competitive enough to insure receipt of fair market value.

The Department has begun to use a Monte Carlo simulation model in the estimation of the value of tracts offered for lease. This simulation approach provides a more accurate representation of the uncertainties inherent in hydrocarbon estimation. Through the use of this model and improved bid rejection system, the Department is in a position to more accurately assess whether the high bids received on tracts reflect fair market value. Since the inception of the Monte Carlo program in 1974, approximately 16 percent of the high bids received have been rejected. Here too, the proposed data disclosure regulations offer benefits in putting all bidders on equal terms regarding the offshore geologic data they possess.

Proposed regulations banning joint bidding among the largest oil companies were published in the *Federal Register* on February 21, 1975. All companies, including their subsidiaries, that produce more than 1.6 million barrels of oil and natural gas equivalent a day, will be banned from bidding jointly with each other. Such companies are also precluded from making pre-lease arrangements whereby an agreement is made between two companies to share a lease if one of the two is awarded the lease. Comments on the regulations are due on March 25, 1975. The regulations are expected to be in effect for the proposed California sale, now scheduled for mid-summer.

Different methods of bidding for OCS leases are under constant consideration. Bonus bidding has historically been used for Federal OCS leasing. The Department is currently analyzing alternative bidding methods available to it under the OCS Lands Act of 1953. Concern has been raised over the heavy commitment of "front end" capital associated with the cash bonus, fixed royalty of 16⅔ percent method of leasing. Options are being reviewed to accomplish the following: (1) lower front end costs, (2) assure payment of a fair share of actual production to the Federal Government and (3) ensure the maximum economic recovery of each reservoir.

Among the bidding methods being considered are:

bonus bidding with increased royalty rates;
royalty bidding;
bonus bidding with net profit payments in lieu of royalties;
net profit bidding;
deferred bonus payments with forgiveness of the unpaid balance at the time of lease abandonment.

A test of the royalty bidding option took place in October 1974. Ten tracts were offered with eight being leased and the results are currently being analyzed.

Both S. 521 and S. 426 would amend the OCS Act to eliminate the present alternative of royalty bidding, and two new alternatives would be added involving net profit sharing. We object to provisions such as these, insofar as they limit our flexibility in devising appropriate lease terms, particularly with respect to royalty bidding.

C. Environmental and safety programs.

The need for constantly improving our environmental protection and safety programs is clear and we concur in the broad objective of several of the bills to achieve this end. The actions we are taking in this regard are more fully set forth below.

1. Environmental Requirements. The National Environmental Policy Act requires the Interior Department to insure that environmental considerations are fully taken into account in implementing the OCS Lands Act.

Both S. 521 and S. 426 would add to the present law a section requiring a Federal exploration program prior to leasing in frontier areas. While we agree with the general aims of the provision, to obtain more information on which to assess development possibilities and bidding, we are opposed to statutory establishment of such a program at this time. One of the analyses currently being undertaken within the Department examines Federal exploration of OCS areas. Different program options are under consideration. We believe it would be premature to attempt to establish a Federal exploratory program without first analyzing all the alternatives and conducting analyses such as the studies the Department is performing at the present time.

As part of our analysis of frontier OCS areas, an extensive program of environmental studies has been initiated. The first phase occurs before leasing takes place. It involves an assessment of the biologic, physical, meterologic and geologic conditions of an area. The establishment of this benchmark of oceanographic conditions permits us to later measure any effects resulting from offshore development. It also aids us in the preparation of environmental impact statements, in the selection of tracts and in the development of lease stipulations and criteria.

Once exploration and development take place, an environmental monitoring program is begun. This program involves the analysis of the same variables included in the initial benchmark phase. Changes in the environment are detected and, where necessary, corrective measures are promptly developed.

In addition to the benchmark and monitoring phases, special studies such as spill trajectories, toxicity and socio-economic analyses, are also conducted.

The funding for fiscal year 1975 equals $20.5 million; proposed funding for fiscal year 1976 equals $44.7 million. This program is coordinated through an Outer Continental Research Management Advisory Board which consists of representatives from the coastal States, EPA, NOAA, and agencies within the Department of the Interior.

We are also doing environmental impact statements on the entire accelerated leasing program and on each specific lease offering. We are conducting baseline studies in all frontier areas.

We agree in principle with the objective of a more complete review of the production phase of a lease after the exploratory phase but before the development is undertaken. The Department is studying the administrative steps necessary to put such a policy into force without introducing undue delay in development of the Nation's energy resources. Legal authority pursuant to the OCS Lands Act presently exists to implement such a policy.

Provisions such as those in S. 521 and S. 426 modifying existing procedures are unnecessary and might be detrimental if transitional problems of complying with their provisions delay current studies or other actions we are currently undertaking to improve environ-

mental protection and other requirements. We also oppose statutory provisions which specify in advance that certain Federal actions, programs or functions will or will not constitute major Federal actions for NEPA purposes.

2. Safety Requirements. Adequate safety standards and enforcement procedure for the OCS are currently in operation or are in the process of being put into force. We are committed to having standards at least as strict (assuming reasonable standards) as those of adjacent States. Studies have been conducted in cooperation with the National Academy of Engineering and the National Aeronautics and Space Administration, and steps have been taken to implement the recommendations for safety of OCS operations. Proposed OCS orders have been published for the Gulf of Alaska and the mid-Atlantic to elicit specific comments from interested parties.

S. 521 would direct the Secretary to carry out a program of technological research and development related to production of oil and gas from the OCS to supplement other Federal or private programs. The Secretary would, among other things, establish environmental and safety standards for equipment used, as well as performance standards for oil spill cleanups. Although we agree with the objectives of these provisions, we question whether the Department of the Interior should be directly involved in the development of equipment technologies. The Secretary should instead encourage such development by use of operating conditions and stipulations.

Also a new section in S. 426 appears to transfer functions presently performed by this Department's Geological Survey and Bureau of Land Management to NOAA and the Coast Guard. Subsequent to leasing NOAA is made the lead agency for complying with requirements of NEPA, baseline and monitoring functions. The Coast Guard would also take over present GS functions including promulgation of operating orders, standards for technology to be used and establishment of equipment and performance standards for oil spill cleanup operations. This would constitute an entirely undesirable transfer of responsibilities from agencies which already have the required expertise, to agencies which do not have this experience at this time.

D. Research and development.

A strong research and development program by government and industry is essential both with respect to energy and environmental aspects of OCS mineral development. It is, however, being accomplished under existing law and several provisions in the bill under consideration might, if enacted, actually adversely affect the R&D effort. Mandating a wider range of studies by different agencies, as does S. 521 and S. 426, may preclude desirable coordination and executive flexibility. S. 586 would channel funds on an arbitrary basis to States and thereby constitute an unwise diffusion of R&D efforts.

E. Public participation in OCS decisions.

States which are most likely to be directly affected by the development of energy resources of the OCS should participate in decision making. Under current procedures, we believe that such States are adequately apprised of the activities and hazards which might be in-

volved in OCS development and are provided with ample opportunity for participation on OCS decisions. This State participation now includes:

(a) Environmental Study Program. Representatives from the coastal States serve on the OCS Research Management Advisory Board which oversees the Bureau of Land Management's environmental study program.

(b) Development of OCS Orders. The Geological Survey consults with the States in the development of OCS Orders. These Orders provide industry with the rules and regulations to be followed in exploration and production activities on the OCS. The regulations that are now in effect have been strengthened considerably since the Santa Barbara spill. Proposed orders have been published for the Gulf of Alaska and are soon to be published for the mid-Atlantic.

(c) Call for Nominations. Approximately 12 months prior to a sale date, the Department publishes a request for nominations in the *Federal Register*. All interested members of the public including the adjacent States are urged to nominate specific tracts which they would want to see studied further for possible inclusion in a sale. They are also asked to designate specific tracts which should be excluded from the leasing process because of environmental conflicts.

(d) Tract Selection. Subsequent to receipt of the nominations, the Department makes a tentative selection of tracts. States are consulted on the issues involved in the selection process. States are again consulted before any final decision is made on tracts to be offered in a sale.

(e) Draft Environmental Impact Statement. The DEIS contains a detailed environmental assessment on a tract by tract basis in addition to an analysis of the general environmental conditions in the area. The States are asked to designate representatives to participate in the actual preparation of this document. This request has been made to Atlantic coast Governors and to the Governor of the State of Alaska.

(f) Public Hearing and Comments. After publication of the DEIS, a public hearing is held and States are invited to comment either orally or in writing. These comments are used in preparation of the Final Environmental Impact Statement.

(g) Decision by the Secretary. After completion of the Final EIS and a Program Decision Option Document, a decision is made by the Secretary whether to proceed with the sale and if so the composition of the sale. The Governors of affected coastal States are consulted before a final decision is made on what tracts are to be included in a sale.

(h) OCS Orders. The Geological Survey submits proposed OCS Orders to the States for review and comment.

(i) Supervision of Leases. Geological Survey monitors adherence to the OCS Orders through review of applications and proposed plans. Consideration is being given to having State personnel participate with the Geological Survey in this endeavor.

(j) Review of Development Plan. Under the Coastal Zone Management Act, any State with a coastal zone management plan will have to review actions which may affect land and water uses in the coastal

zone. Such actions may include the approval of a development plan which is now solely the responsibility of Geological Survey.

We are opposed to the provision in S. 521, S. 426 and S. 81 which is designed to provide the Governors of coastal States with a mechanism to delay OCS oil and gas lease sales if such sales are anticipated to exercise some control over such development, or other things fail- the concern of coastal States regarding the environmental and socio-economic problems associated with OCS development and their desire to exercise some control over such development, or other things failing, to at least forestall it. The appropriate response is, however, to undertake advance planning and cooperation between Federal, State and local government along the lines of the Coastal Zone Management Act, rather than on last ditch efforts to delay leasing.

Oil Spill Liability. The Administration is currently preparing legislation for submission to the Congress which would establish a comprehensive system of compensation for oil spill damages. This system would embrace damages from OCS operations and would supplement environmental and safety standards. We expect that this proposal will be forthcoming shortly and we recommend that Congress defer action with respect to oil spill liability compensation until the Administration proposal is submitted.

Distribution of OCS Revenues. The Administration recognizes the concerns about OCS generated fiscal impact problems which have led some coastal States to propose that OCS revenues be shared with the States. The Administration currently is actively developing several alternative proposals to deal with such problems ranging from impact aid grants to formula-grant revenue sharing. However, we have no recommendation to make at this time.

To summarize, the bills before the Committee deal with the major issues relating to use of the energy resources of the Outer Continental Shelf. To meet our present energy needs, however, we believe that the present OCS Lands Act provides a satisfactory framework and that further legislation such as that before the Committee is undesirable or unnecessary.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

STATEMENT OF HON. RUSSELL E. TRAIN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. TRAIN. Senator, we just flipped a coin and I either won or lost, depending on how you look at it and I am going to go first with your permission.

Mr. Chairman, I welcome the opportunity to comment on ocean policy issues as they relate to oil and gas development on the Outer Continental Shelf.

It is appropriate that Congress is focusing on this development. The decision to increase OCS leasing and the extraction of nonrenewable resources as well as the means by which that development

is managed may well be one of the most critical energy decisions of the decade. As you are aware, our needs for new and more abundant supplies of energy resources are not inseparable from our needs to preserve our renewable ocean resources.

We at EPA acknowledge and endorse the necessity to increase domestic energy supplies and on balance we are optimistic that development on the OCS can take place in an environmentally acceptable manner. Those areas where experience has demonstrated that safe operations are possible and where biological sensitivity is lowest should be the first areas to be developed.

We are pleased that the Council on Environmental Quality in their report has indicated that the benefits of potential oil and gas development must always be balanced against the environmental risk. Where a balance is found to be favorable, exploration can then proceed with caution and a commitment to prevent damage. To achieve this balance, it is imperative that all promising OCS areas be analyzed and ranked both for resource potential and for environmental sensitivity and natural hazards. Only after careful analyses of both the resource potential and the attendant environmental risks should we proceed to explore a given area.

The need to regulate the varying uses of natural resources on the Outer Continental Shelf requires the full implementation and strict enforcement of the requirements and authorities available under existing Federal law. Under these authorities—Outer Continental Shelf Lands Act, National Environmental Policy Act, Federal Water Pollution Control Act, Marine Protection, Research and Sanctuaries Act, and Coastal Zone Management Act—EPA and other Federal agencies are not without experience in dealing with the problems created by OCS oil and gas development. The National Environmental Policy Act has been employed to open up OCS policymaking to much greater scrutiny and much broader public participation. We believe that even greater cooperation and effective involvement among concerned Federal agencies, the States, and other concerned organizations can be achieved. The environmental impact statement process can contribute significantly to that ahievement.

The environmental issues presently involved with exploratory drilling differ greatly from those of subsequent development. Under present OCS management practice, the two processes—exploration and resource production—tend to be tied together in the sense that the review of development plans subsequent to exploration but before development has not sufficiently addressed onshore impacts nor involved State and local participation to the degree that I believe is desirable. As a result, the exploration program can be delayed due to unresolved development issues. I would also add that under this practice there is some risk that subsequent development will proceed without adequate evaluation of the environmental consequences of development options. We at EPA believe that the present practice could be improved by a process of development plan review which explicitly addresses the full economic, social, and environmental impact including the onshore impacts of the proposed development, with participation by Federal agencies with interest and expertise and by affected States and communities. These development plans should, of course,

be subjected to environmental assessment and, when appropriate, to preparation of environmental impact statements. It is our understanding that the Department of the Interior believes that the OCS Lands Act provides authority for this kind of improvement in present OCS management practice.

The approach I am recommending would require preparation of a BIS before specific lease tracts are selected. This initial statement would focus on marine biological aspects, especially in coastal and estuarine areas which are the richest and most vulnerable areas, and would screen or prioritize tracts that would be explored with low environmental risk. A second environmental assessment would be written on a specific development plan or plans. This second review process would allow fuller consideration of pipeline corridors, onshore development, and related effects than is now the usual practice.

One of the principal concerns we at EPA share with other Federal agencies and the States relates to the potential onshore and coastal zone impacts that would arise with expanded OCS development. Comprehensive energy planning offshore must occur within a framework which recognizes and emphasizes the need for onshore planning. Insofar as onshore impacts are concerned, EPA believes that the present preleasing procedures do not provide either adequate or timely acquisition of the necessary information for State and local planning. We do not believe that any preleasing procedures could provide the necessary information. More meaningful evaluation by State and local governments of development options based upon postexploration knowledge is essential, in our opinion.

I believe that many Federal agencies could contribute significant information, data, and analysis for a complete environmental assessment. Under the leadership of one agency and with maximum coordination with the affected States a thorough analysis of the social, economic, and environmental implications of both OCS exploration and development can be achieved.

In that regard, consideration should be given to an approach whereby necessary Federal and State licenses and permits could be dealt with in a streamlined and coordinated way.

The Federal Government must accept the responsibility for informing State and local governments about coastal facilities and services which are likely to be needed in connection with OCS activities well in advance of development. The growing pressures on the coastal States from many onshore and offshore activities, coupled with a realization that these developments will mutually affect each other, have produced widespread concern.

Onshore development may occur in rural areas where relatively little growth could be expected in the absence of offshore energy development. The location of OCS development activities will tend to induce new industries, particularly refineries and petrochemical complexes in the immediate area serving these offshore rigs.

The creation of new petroleum-related industries will also induce associated commercial and economic activities. An overall increase in economic development will cause population concentration and needs for new housing and added public services, such as sewage treatment, transportation, schools, electric power, and recreational facilities. Each

of these activities will in turn result in a range of environmental impacts beyond what would normally be expected without OCS development. The impacts include demands for land and water supply, increased probabilities of air and water pollution, and a burden on public services.

Onshore impacts, especially in rural areas could become a major burden on energy development. The creation of strong coastal zone management agencies within the affected States will insure that the interests of the States and their citizens will be appropriately represented. Critical to the effective use of coastal zone programs, however, is the necessary coordination between the Federal agencies holding responsibility for offshore development and State planning agencies. To insure timely and responsible State efforts States must receive at the earliest possible time the following types of information:

1. Best and latest estimates of the volume of oil or gas to be extracted and the latest schedule for this development;
2. Date and plans for OCS development, including estimates of the number and types of facilities needed for production, refining, and transportation: and
3. The likely effect of development on air and water quality.

Given this framework of data and information, the increased effectiveness of coastal zone management can do much to assure that offshore development of oil and gas resources occurs within the limits of environmental acceptability.

EPA has important environmental regulatory responsibilities under existing law that can provide significant protection on the OCS and adjacent shore areas.

Under the Federal Water Pollution Control Act and the Marine Protection, Research, and Sanctuaries Act, a Federal program of marine pollution abatement and control was established. EPA sets ocean discharge criteria which are then used to evaluate permit applications for the dumping or discharge of waste material into the waters of the territorial sea, the contiguous zone, and the oceans.

One of our continuing concerns is the responsibility under the Federal Water Pollution Control Act for the control of oil and hazardous substances spills. We are charged with responsibilities relating to oil spill incidents and marine disasters creating potential pollution hazards, which occur upon the navigable waters of the United States, adjoining shorelines and the waters of the contiguous zone. The national oil and hazardous substances contingency plan prepared pursuant to that section delineates procedures, techniques, and responsibilities of the various Federal, State, and local agencies. With respect to the Outer Continental Shelf, the Department of the Interior, U.S. Geological Survey, is the lead agency and provides expertise for oil pollution control programs connected with exploration, drilling, and production operations. In the event of a shelf oil spill episode, Interior, the Coast Guard, and EPA act pursuant to the national contingency plan in a predesignated and coordinated fashion to control, contain, and mitigate the adverse effects of a spill on the ocean and shoreside environments.

The potential danger of environmental damage is closely associated with increased production activity on the OCS and serves to under-

score the importance of safety and environmental protection programs. EPA is consulting with Interior in their efforts to improve safety and environmental protection. In addition, it further emphasizes the need for better information and more research to determine the overall environmental risks attendant on development.

EPA believes that it is impossible to evaluate adequately the environmental consequences of OCS development without the compliation and analysis of baseline biological and physical data. Baseline studies in frontier areas are essential to prioritize biologically important areas.

While there is no doubt that petroleum products are toxic, research should be continued to determine the persistence and full degree of toxicity of petroleum compounds. We also need to understand the recovery mechanisms of specific ecosystems and their components which have suffered catastrophic damage. The studies should focus on the effects of both one-time spills, and of continuous low-volume discharges. EPA has a significant role with respect to such activities and has assigned a high priority to this research.

Recognizing the limitation of equipment for drilling and the amount of baseline and biological research which is needed, we at EPA believe that exploration can proceed as soon as the environmental baselines can be collected and evaluated. Then too, coastal jurisdictions will be better able to proceed with their planning functions based on some knowledge of the volume of activity which will be taking place off their shores.

In summary, I believe that the significance of the studies needed, the potential problems presented, and the need for a sound technical basis necessitate a large degree of coordination and cooperation among all levels of government.

The end product of organization, planning, and study will be an improvement in the quality and scope of management of both renewable and nonrenewable resources. Such data will also enable us to make the necessary environmental assessments. I think that the comprehensive environmental analysis which I have discussed will aid us in the coordinated evaluation of environmental concerns at both the exploration and development stages of the leasing process. It will also provide for better exchange and coordination of information between Federal agencies and the States, and guarantee our Nation's optimal use of both our environmental and energy resources.

I appreciate the opportunity today to share with you some of my thoughts and concerns on oil and gas development on the OCS.

STATEMENT OF HON. RUSSELL W. PETERSON, CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

Mr. PETERSON. Thank you, Mr. Chairman and Senator Jackson. Thank you for the opportunity to present the views of the Council on Environmental Quality on proposed amendments to the Outer Continental Shelf Lands Act and the Coastal Zone Management Act.

As the President has made clear, accelerated exploration and production of oil and gas from the OCS, subject to the fullest possible environmental protection, is a major component in our effort to achieve

energy self-sufficiency. Development of frontier OCS areas offers the possibility of significantly augmenting our domestic oil and gas supply and helping to limit dependence on foreign sources. At the same time, such development can lead to significant environmental impacts in the marine and coastal zone environment, and in all likelihood will result in localized social and economic changes.

For more than 20 years the leasing and development of oil and gas on the OCS have been accomplished under the Outer Continental Shelf Lands Act of 1953. This law has proven to be one of the most flexible of our resource statutes, allowing the Secretary of the Interior to take steps necessary to adjust to the exigencies of changing OCS operating conditions. This was well demonstrated after the 1969 Santa Barbara blowout, when major reforms in operating regulations designed to reduce the possibility of future spills and applicable to all operations on the OCS, were put into effect.

At the same time it is important to remember that this law was written two decades ago and was based primarily on the experiences in the well understood and friendly confines of the Gulf of Mexico. In many respects the 1953 act was designed to extend the shallow water offshore Louisiana system onto Federal lands. Thus, the fundamental issue is whether this system can function adequately as we seek to explore and produce the new and untested frontiers of the U.S. Outer Continental Shelf.

The bills you have before you today would result in major changes in the law and the management system which have evolved during this 20-year period. And while the system undoubtedly has defects, major alternatives to established procedures should be considered carefully to avoid serious disruptions in the OCS operations.

In April 1974, CEQ concluded a year-long environmental assessment of OCS oil and gas development and submitted its report to the President. This study concluded that leasing in frontier areas must be conducted under carefully controlled conditions. Since that time the Department of the Interior has taken a number of steps to improve its OCS management program to better accommodate the concerns expressed in that study. And, as the Department has stated today, they have additional measures under active consideration.

I would now like to turn to some of the major issues in the bills you are considering.

From our perspective, the fundamental issues relate to assuring adequate environmental assessment and coordinated planning before decisions are made to open new areas for leasing, and prior to approving the actual plans for oil and gas production operations. Related to these objectives three recent laws have had the effect of amending the OCS Lands Act: The National Environmental Policy Act, the Coastal Zone Management Act, and the Marine Sanctuaries Act. Properly administered, these laws should provide the basis for adequate environmental evaluation and planning.

Changes in the OCS environmental analysis and decisionmaking process to reflect the problems of the frontier areas can, I feel, go a long way toward meeting many of the objectives set out in S. 521, and S. 586. The administration is actively considering these changes. We believe that a procedure which more clearly separates decisions to

lease and decisions to develop, with appropriate Senate and local participation at each stage of the process would provide the soundest basis for planning for and dealing with the impacts of OCS development.

As the first step of this process, the Interior Department has released a draft programmatic EIS for the accelerated leasing program which I understand is now being substantially revised. This EIS should discuss the proposed long-term leasing program, including the lease schedule and alternatives to the schedule. This statement should also put forward an assessment of the relative environmental risks of leasing in each of the 17 designated frontier areas, and discuss the method for deciding, after preparation of area impact statement, whether or not to postpone leasing in areas where oil and gas cannot be safely produced and transported. The programmatic EIS should also set forth the environmental assessment procedures to be carried out at various stages of program implementation, and specify procedures for State and local involvement. In addition, this EIS should detail the regulatory, inspection, and enforcement procedures, including manpower levels and training, for supervision of operations under the proposed schedule for frontier areas.

Such a program impact statement, periodically updated, would serve the functions, and more, of the national leasing program in S. 521 and S. 426 and would provide the basis for general public and congressional scrutiny and comment on the proposed accelerated program.

As the second step in this process, prior to the first sale in each frontier area, an impact statement would be prepared to provide the best possible assessment of impacts, including onshore impacts, of opening that area to exploration and development. The area-wide statement would be prepared as early as possible in the leasing process, and would be supplemented, as necessary, to reflect new data and analysis prior to any subsequent sales, in the same geographic area. In connection with each sale, the procedure for environmental assessment of individual tracts in the selection process would be spelled out, and the results made public.

The third step in this process would represent a significant departure from past practice. It is becoming a well-recognized fact that it is virtually impossible to plan adequately for mitigating the impacts of oil and gas development without knowledge of the location and amount of oil and gas, whether recoverable resources in fact exist, and how lessees would propose to develop that resource. The crux of the issue, therefore, is whether or not to go ahead with leasing in the absence of the geological, geophysical, and corporate planning information which would make it possible to undertake such impact assessments.

Both S. 521 and S. 426 before you contemplate an approach based on a greatly expanded Federal Government role in exploration of the OSC. While we recognize the Government's need for better information prior to approving development plans, it is questionable, in my view, whether exploration should be either substantially or exclusively under Government aegis. In recent months the Interior Department has taken important steps to require operators conducting exploratory activities on the OCS to submit all the geological and geophysical data collected under a Government permit for Government use in

planning. This requirement has put the Government on an equal data footing with industry in determining the value of individual tracts. It will also give the Government some idea of potential resource producing areas for planning prior to leasing.

But more information is required. The location of reserves in a given area and corporate facts about development of producing structures cannot be ascertained until after a concentrated program of exploratory drilling. Until such time, the location and manner of construction of production platforms, pipelines, and onshore support facilities can be only speculative. It is at this critical juncture—after exploration but prior to approval of production operations—that we propose an expanded level of environmental assessment and planning.

It is my view that it is possible to leave the responsibility for exploration in the private sector yet still achieve the necessary analysis and planning before production operations are approved. This can be done by providing for a clear distinction in the OCS development system between exploration and development. As I see such a system, companies would be given the right to conduct drilling and other exploratory operations, subject to whatever environmental conditions are necessary, with rights to develop only in accordance with a development plan approved subsequent to exploration. During this exploratory phase the operating company will be required to conduct specified environmental studies, dealing, for example, with bottom conditions, fishery resources, and other site-specific data gathering In addition, a company would be required to report significant discoveries of oil and gas immediately. Any preliminary plans for bringing that oil and gas ashore would be made available to State and local officials at the earliest possible time for use in onshore planning activities.

After the exploratory phase, the company would submit a detailed development plan for the proposed operations. Among other things, the plan would include a full statement of all facilities, both onshore and offshore, likely to be required in order to develop that acreage fully. For each development plan an environmental assessment and, if appropriate, a full environmental impact statement would be prepared and the development plan would not be approved until after full State and local review.

I believe that the Governors of the States and the officials of local communities which would be affected by a development plan should have an opportunity to require modifications in the plan so that it will correspond to their coastal zone management plan and other onshore plans.

However, the Secretary of the Interior should have the authority to require development plans to be modified to protect offshore and onshore environments.

The basic question here is how to implement a workable system. The Interior Department believes that it is possible to accomplish needed reforms under the present OCS Lands Act, and we understand the Interior Department is actively considering this possibility.

I believe that sound environmental management and the fullest possible merging of offshore development with onshore planning can be accomplished within the framework I have outlined above. In review-

ing your proposed legislation. I have concluded that such a system would meet most of the major problems you are seeking to resolve. I would be glad to answer any questions you may have or work with you further on this important subject.

STATEMENT OF HON. ROBERT M. WHITE, ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE, ACCOMPANIED BY ROBERT KNECHT, ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT, NOAA, AND WILLIAM C. BREWER, GENERAL COUNSEL, NOAA

Mr. WHITE. Mr. Chairman, before I begin my statement, let me introduce the people at the table here with me. To my left I have Mr. Robert Knecht, the Assistant Administrator for Coastal Zone Management in our organization. To his left, Mr. William C. Brewer, our general counsel.

It is a pleasure to appear here before this meeting of the Interior Committee and the national ocean policy study to discuss NOAA's role with respect to the legislation now being considered by the committee.

In view of the fact that the Secretary of Interior has stated the administration's position on the bills before you today, I would like to review some of the progress being made on implementation of the coastal zone management program as well as discuss several of NOAA's other activities which are closely related to the OCS issue.

All of the legislative proposals in S. 81, S. 130, S. 426, S. 470, S. 521, S. 586, S. 825, and 826 reflect the reality that the proposed oil and gas development in the frontier areas of the OCS will confront us with a quantum change in circumstances. The Nation's principal offshore oil and gas development, in the Gulf of Mexico, has grown gradually over a period of 20 years. It grew in an area with a history of involvement with petroleum development. Growth took place gradually, moving a technology developed on land into the ocean.

We are now seeking to develop petroleum resources off the coasts of areas which are largely unfamiliar with such development and in which environmental conditions and the social and economic impacts are likely to be different. Not surprisingly, there is concern and some opposition. The legislation being considered here deserves the most careful appraisal.

We believe the time is overdue for the States and the Federal Government to recognize and accommodate to their legitimate mutual needs. NOAA recognizes and supports the urgent national requirement for the development of new domestic sources of petroleum. We are convinced that the States recognize their obligation to work with the Federal Government in the satisfaction of these national interests. On the other hand, NOAA also recognizes the legitimacy of the deep concerns of the States and other groups for the environmental and onshore impacts of unplanned development and believes the Federal Government has a responsibility to alleviate these concerns.

In NOAA's assessment, the two views are not incompatible. Bringing about this compatibility can be greatly advanced by the rapid and full implementation of the Coastal Zone Management Act of 1972. This act places in the hands of the States the responsibility for comprehensive coastal zone planning and management in a balanced manner that recognizes economic as well as environmental, and national as well as local, needs.

In the implementation of the Coastal Zone Management Act, we have had extensive opportunity to work with the coastal States. The following views have emerged:

First. The States seek early information on all aspects of the offshore leasing program and suitable participation in all the steps of the decisionmaking process.

Second. The States generally wish to have the OCS development take place in the context of a comprehensive coastal zone management program and are concerned that irreversible commitment to development will take place offshore before such plans are ready.

Third. The States want and need more information about the specifics of anticipated onshore impacts. They are concerned about economic, social, and environmental effects of onshore industrial support and public services that will be required.

Fourth. The States want financial support to offset the cost of services and facilities needed to support a rapid industrial buildup once an offshore field is discovered. They feel that while the benefits of OCS production are enjoyed by all citizens in all parts of the country, the disadvantages are localized and therefore their elimination is a responsibility of all.

The Governor of Vermont this afternoon reflected many of the same views.

We believe that the administration's program, as discussed by Secretary Morton, goes a long way toward meeting those needs.

The Coastal Zone Management Act signed into law in 1972, as a voluntary measure, has been enthusiastically received as the right institutional vehicle at the right time. All 30 of the eligible States and 2 territories are now taking part. The first grants to the States to prepare coastal management plans were made about 1 year ago. For the current year, $12 million has been appropriated to carry out the provisions of the act. In addition, the President is seeking $3 million in supplemental funds this fiscal year to provide additional assistance to coastal States as they prepare to deal with the OCS oil and gas issues. In the short time of its existence we already have several States on the point of submitting coastal zone management plans to the Department for final approval and implementation. We hope to have at least one approved by the end of the fiscal year. While many difficulties lie ahead, we are very encouraged with the progress to date and are confident that the intent of Congress to bring about more rational use of our precious coastal lands and waters will in fact be met.

NOAA's interest in Outer Continental Shelf development, the protection of the environment, and the conservation of our ocean resources goes far beyond our responsibilities under the Coastal Zone Management Act. We are the ocean fisheries agency of this Government and, as such, have responsibility to insure that these resources are conserved

through protection of their habitats. As the ocean surveying agency, we are involved in the production of the maps and charts, definition of the tides and currents, and other oceanographic features whose understanding is important to environmentally sound development of our offshore oil and gas resources. As a part of the sea-grant program, a number of the Nation's foremost colleges and universities are producing scientific and technical results on coastal and marine problems that are directly relevant to the issues being discussed here today. Recent sea-grant work has focused on deepwater ports and their environmental implications, the onshore impacts of offshore oil activity, and a host of other coastal zone problems.

We have responsibility for the Nation's weather and ocean monitoring activities and, hence, have been deeply involved in the provision of environmental information and the prediction of those natural disasters that can vitally affect offshore operations. We are responsible for maintenance of the National Ocean Data Center, as well as the National Climatic Center, the national depositories of the data on environmental conditions which are crucial to design of facilities and structures, as well as the safe and environmentally sound operation on ourselves. As the ocean agency we maintain the country's foremost capability in ships and aircraft, earth orbiting satellites, research laboratories and facilities, as well as the scientific expertise enabling us to assist in assessing the whole range of environmental consequences that might result from oil and gas development.

In this connection we are working closely with the Geological Survey and Bureau of Land Management of the Department of Interior in carrying out the environmental assessments for those frontier areas which are presently contemplated for lease sales.

Thank you for the opportunity of appearing before you today. I would be happy to answer any questions that the committee might have.

X. Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 521, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

Sec. 2. Definitions.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term "Secretary" means the Secretary of the Interior;

(c) The term "mineral lease" means any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

(e) The term "coastal zone" means the coastal waters (including the lands herein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends seaward to the outer limit of the United States territorial sea. The zone extends from the shorelines inward to boundaries of the coastal zone as identified by the coastal States pursuant to the regulations promulgated under the authority of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1)). Excluded from the coastal zone are lands the use of which is by law subject to the discretion of or which is held in trust by the Federal Government, its officers, or agents.

(f) The term "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, or Long Island Sound.

(g) The term "marine environment" means the physical, atmospheric, and biological components, conditions, and factors which in combination and interactively determine the productivity, state, condition, and quality of the marine ecosystem including the waters of the high seas, contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and in the Outer Continental Shelf of the United States.

(h) The term "coastal environment" means the physical, atmospheric, biological, social, and economic components, conditions, and factors which in combination and interactively determine the productivity, state, and quality of the human environment and marine and terrestrial ecosystem from the seaward boundary of the coastal zone inward to the boundary of the coastal zone as identified by the States pursuant to the regulations promulgated under the authority of the Coastal Zone Management Act of 1972 (86 Stat. 1280; 16 U.S.C. 1454(b)(1)), and including that part of the marine environment which falls within the coastal zone.

(i) The term "exploration" means the process of searching for oil or natural gas, including geophysical surveys where magnetic, gravity, seismic, spectroscopic or other systems are used to detect or imply the presence of oil or natural gas; any drilling, whether on or off known geological structures including a well in which a discovery of oil or natural gas in commercial quantities is made, also including any additional delineation wells after such discovery needed to delineate the formation and to enable the lessee to determine whether to proceed with development and production.

(j) The term "development" means those activities which take place following discovery of oil or natural gas in commercial quantities, including geophysical activity, drilling, platform construction emplacement and outfitting, pipelaying and all on-shore support facilities which are for the purpose of ultimately producing oil or natural gas.

(k) The term "production" means those activities which take place after the successful completion of a development well, including but

not limited to field operation and transfer of oil or natural gas to shore, operation monitoring, maintenance and work-over drilling.

(l) The term "maximum efficient rate of production" means the maximum level of production which can be sustained without detriment to ultimate recovery of the resource produced.

SEC. 3. JURISDICTION OVER OUTER CONTINENTAL SHELF.—(a) It is hereby declared to be the policy of the United States that the subsoil and seabed of the Outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act.

(b) This Act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected.

(c) It is hereby declared that the Outer Continental Shelf is a vital national resource reserve held by the Federal Government for all the people, which should be made available for orderly development, subject to environmental safeguards, consistent with and when necessary to meet national needs.

(d) It is hereby recognized that development of the oil and gas resources of the Outer Continental Shelf will have significant impact on coastal zone areas of adjacent States and that, in view of the national interest in the effective management of the coastal zone, (1) such States may require assistance in protecting their coastal zone insofar as possible from the adverse effects of such impact, and (2) such States are entitled to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for and development, and production of oil and gas in the Outer Continental Shelf.

(e) It is hereby recognized that the rights and responsibilities of the States to preserve and protect their marine and coastal environments through such means as regulation of land, air, and water uses and of related development and activity should be protected.

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are hereby extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however,* That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this Act.

(2) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State [as of the effective date of this Act] are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward

and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing or transportig by pipeline the natural resources, or involving rights to the national resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

(c) With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b), compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artifical islands and fixed structures thereon.

(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island or fixed structure referred to in subsection (a) shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure.

(e) (1) The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) or on the waters adjacent thereto, as he may deem necessary.

(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who

shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

(f) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is hereby extended to artificial islands a d fixed structures located on the outer Continental Shelf.

(g) The specific application by t his section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands and fixed structures referred to in subsection (a) or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) (1) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production.

(2) [Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense.] The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provision of section 6(b), clause (2), hereof if the lease is maintained under the provisions of section 6 hereof.

(b) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 8(j), if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

(c) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

(d) (1) Prior to development and production, a lessee shall submit to the Secretary for approval, and to the Governors of the affected coastal States and the appropriate regional boards established pursuant to the Act for review, a Development and Production Plan (hereinafter referred to as the "plan"). The plan may apply to more than one lease.

(2) After enactment of this section no oil and gas lease may be issued pursuant to this Act unless the lease requires that development and production of reserves be carried out in accordance with a plan which meets the requirements of this section.

(3) With respect to leases outstanding on the date of the enactment of this section, where development and production have not yet begun on such leases, a proposed development and production plan must be

submitted to and approved by the Secretary and submitted to the Governor of the affected coastal State and appropriate regional boards for review in accordance with the provisions of this subsection prior to the commencement of development and production.

(4) Such plan shall include, to the extent available at the time of its submission, but not be limited to, the following information:

(A) location of the lease area in reference to other coastal and offshore activities, including other oil and gas developments or potential developments nearby and nature and extent of the oil and/or gas resources;

(B) anticipated location of production units, offshore and onshore support facilities, and rights-of-way and number of pipelines and other infrastructure necessary to produce, transport, process, and distribute oil and gas from the lease area;

(C) capacity of onshore facilities and infrastructure at the point of entry into a coastal State of the oil or gas produced within the lease area estimated to the extent possible;

(D) assessment of the need for new onshore facilities or infrastructure that may be required to handle the oil or gas produced from the lease area, or otherwise to support operations within the lease area;

(E) extraordinary geologic conditions or resource values in the lease area and/or affected areas of the coastal zone which may require special treatment or precautions to protect the marine or coastal environment or insure the safe development and production from the lease area;

(F) expected rate of development and production from the lease area which shall be consistent with the requirements of paragraph (5) of this subsection;

(G) anticipated productive life of the lease area and the field in which it is located;

(H) certification of the consistency of the projected development and production plan in accordance with the provisions of section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456);

(I) such other information as may be required by the Secretary to determine environmental, social, or economic impacts of the proposed development.

(5) All proposed plans shall include a commitment on the part of the lessee to produce at a rate no less than the maximum efficient rate for the duration of production covered by the plan: Provided, That upon a finding by the Secretary that production at such rate would be uneconomical for the lessee or would violate other provisions of this Act or for other good cause shown, the Secretary shall waive such requirement. The Secretary shall promulgate by regulation guidelines for the determination by the lessee of such maximum efficient rate of production.

(6) If the Secretary determines that the proposed plan makes adequate provision for safe operations on the Outer Continental Shelf, he shall tentatively approve those portions of the plan dealing with operations on the Outer Continental Shelf and transmit it, together with any draft environmental impact statement prepared pursuant to sec-

tion 102(2)(C) of the National Environmental Policy Act of 1969, to the Governors of the affected coastal States, any appropriate regional Outer Continental Shelf Advisory Board, and any appropriate interstate regional entity created under the authority of the Coastal Zone Management Act (as amended), for their review and comment and make the plan available to the general public not less than sixty days prior to public hearings as provided for by paragraph (7) of this subsection. Any such draft environmental impact statement shall be made available to the public as soon as it is completed. After such tentative approval, the lessee may proceed with development on the Outer Continental Shelf in accordance with the plan: Provided, however, That prior to approval of the plan the Secretary may require modifications pursuant to paragraph (8) of this subsection.

(7) The Secretary shall conduct public hearings within the affected coastal States not less than sixty days prior to approval or disapproval of the plan. Sufficient opportunity shall be provided for representatives of the affected States, local governments, the lessee and members of the public to testify. Transcripts of such hearings shall be printed and made part of the record, including the comments of any affected State, any regional Outer Continental Shelf Advisory Board, local government, or interstate or regional entity which reviewed the plan and shall be made available to the public upon request.

(8)(A) The Secretary shall require modification of a proposed plan if he determines that the lessee has failed to make adequate provision in the plan for safe operations on the lease area or for protection of the marine or coastal environment, including protection of the coastal zone from avoidable adverse impacts: Provided, however, That the Secretary may not require any modification which would be inconsistent with a State coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) or with any valid exercise of authority by the State involved or any political subdivision thereof. The Secretary shall disapprove a plan only (1) if the lessee fails to demonstrate that he can comply with the requirements of this Act and other applicable Federal law, or (2) if because of extraordinary geologic conditions in the lease area, extraordinary resource values in the marine or coastal environment, or other extraordinary circumstances, the proposed plan cannot be modified to insure a safe operation.

(B) The Secretary shall require periodic review of the plan in light of changes in available information, and other onshore or offshore conditions affecting or impacted by the development and production. Where the review indicates that the plan should be revised to meet the requirements of this paragraph, the Secretary shall require such revision.

(9) The Secretary may approve revisions of an approved plan if he determines that such revision will lead to greater recovery of oil and gas, improve the efficiency, safety, and environmental protection of the recovery operation, or is the only means available to avoid substantial economic hardship on the lessee, to the extent consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary deems to be significant must be reviewed as provided in paragraphs (6) and (7) of this subsection.

(10) Failure to comply with an approved plan shall terminate the lease.

(e) After the date of enactment of this section, holders of oil and gas leases issued pursuant to this Act shall not be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to obtain production or to conduct testing or workover operations without flaring.

(f) After the date of enactment of this section, all new leases issued pursuant to this Act and, to the extent legally permissible, all existing leases so issued shall require, as a condition to such lease, that the lessee shall design and immediately implement an exploratory, development and production program to obtain maximum efficient rates of production from the lands subject to such lease as soon as practicable.

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as provided in section 7 hereof or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordanme with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) in this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalities, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;

(10) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8), (9) and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within ninety days after making his determination that such lease meets the

requirements of subsection (a) of this section: *Provided, however*, That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of such subsection (b) unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided, further*, That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this Act: *Provided further*, That, if the primary term of a lease being maintained under subsection (b) hereof has expired prior to the effective date of this Act and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from the effective date of this Act and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approval by the Secretary, are being conducted on the area covered by the lease.

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

SEC. 7. CONTROVERSY OVER JURISDICTION.—In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (b) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be

considered as compliance with section 6(a)(4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6 (a), and thereupon the provisions of section 6 (b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), December 21, 1951 (17 F. R. 43), March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48), respectively, is hereby approved and confirmed.

SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.—[(a) In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned, with a cash bonus fixed by the Secretary.

[(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.]

(a) The Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance oil and gas leases on submerged lands of the Outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be:

(1) by sealed bid;

(2) at the discretion of the Secretary, on the basis of—

(A) cash bonus bid with a royalty fixed by the Secretary at not less than 16⅔ per centum in amount or value of the production saved, removed, or sold;

(B) variable royalty bid based on a percentum of the production saved, removed, or sold with a cash bonus as determined by the Secretary;

(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease as resources diminish, but not less than 16⅔ per centum in amount or value of the production saved, removed, or sold at the beginning of the lease period;

(D) cash bonus bid with a fixed share of the net profits derived from operation of the tract of no less than 60 per centum reserved to the United States;

(E) fixed cash bonus with the net profit share reserved to the United States as the bid variable;

(F) cash bonus with a royalty fixed by the Secretary at not less than 16⅔ per centum in amount or value of the production saved, removed, or sold and a per centum share of net profits derived from the production of oil and gas produced from the lease; or

(G) cash bonus bids for 1 per centum shares of an undivided working interest in the exploration and development of a large area, such shares to be awarded on the basis of the value of the bid per share, with a fixed share of the net profits derived from the lease to be determined by the Secretary, but not to be less than 60 per centum of such net profits, reserved to the United States;

(H) cash bonus bids for 1 per centum shares of an undivided working interest in the exploration and development of a lease area, such shares to be awarded on the basis of the value of the bid per share, and with a diminishing or sliding share of the net profits derived from the lease reserved to the United States, based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease as resources diminish and/or costs of production increase and to ensure that the cumulative value of the share reserved to the United States not be less than 50 per centum of the cumulative value of the profits from the lease;

(I) a proposed exploration program for the area to be leased described in terms of specific ctivities to be undertaken or amounts of money to be spent with a royalty fixed by the Secretary at not less than 16⅔ per centum in amount or value of the products saved, removed, or sold, or with a fixed share of the net profits derived from the lease to be determined by the Secretary, but not to be less than 60 per centum of such net profits, reserved to the United States;

(J) royalty based on a percentage of the production saved, remored, or sold, or net profit share reserved to the United States as the bid variable with a cash bonus fixed by the Secretary in an amount which he estimates would pay for an adequate exploratory drilling program on the tract to be leased: Provided, however, That such royalty shall not be less than 16⅔ per centum in amount or value of the production saved, remored, or sold and such net profit share shall not be less than 60 per centum of such net profit. The Secretary shall deposit in an interest-bearing escrow account any cash bonus received pursuant to this subparagraph and shall

grant to the lessee of any area leased pursuant to this subparagraph such amounts of such funds as the lessee may need to finance the cost of exploratory drilling on the lease areas: Provided, however, That no grants shall be made in excess of the cash bonus received for the leased area and the interest accrued thereon: Provided further, That the payment of the cash bonus may be deferred according to a schedule announced at the time the tract is put out for lease, but such payment shall be made within three years from the date of the lease sale.

(3) The net profit share to be paid to the United States as provided in subparagraphs (D), (E), (F), (G), and (H) of paragraph (2) of this subsection shall be determined individually for each lease area, and shall be published in the Federal Register not less than ninety days before the lease sale.

(4) The Secretary shall by regulation establish accounting procedures and standards to govern the calculation of the net profits. Such regulation shall include a capital recovery plan based upon a reasonable rate of interest and a reasonable period of recovery. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits, the burden of proof shall be on the lessee. The accounting procedures shall provide for the deduction of appropriate overhead expenses and general administrative expenses of a lessee which are attributable to the support of activities performed on the lease area in question.

(5) The United States shall be considered a nonvoting party to any joint working group formed pursuant to subparagraphs (G) and (H) of paragraph (2) of this subsection for the purpose of participating in the management of the joint exploratory and development venture: Provided, however, That the United States shall not contribute any operating funds for the exploration and development of a lease other than the matching grants authorized by paragraph (10) of this section. The Secretary shall represent the United States for the purposes of this paragraph. The Secretary shall establish standards and procedures for selection of operators for any joint working group.

(6) The Secretary shall utilize the bidding alternative from among those authorized by this section so as to accomplish the objectives of this Act, considering both the overall national interest and equity among the interested parties: Provided, however, That the cash bonus bid with royalty fixed by the Secretary system authorized by subparagraph (A) of paragraph (2) of this subsection shall not be applied to more than 50 per centum of the area offered for lease each year in the regions where there has been no previous development of oil and gas: And provided further, That subsequent to passage of this Act, a study will be initiated of the benefits and costs associated with conducting lease sales using the undivided working interest cash bonus bid systems authorized by subparagraphs (G) and (H) of paragraph (2) of this subsection. These systems shall be analyzed in terms of their ability to accomplish the objectives of this Act, considering

both the overall national interest and equity among the interested parties. One of the systems authorized by subparagraphs (G) and (H), and one alternative system shall be tested at sales held in an area previously undeveloped for oil and gas during the first year after enactment of this Act and an additional test of one of such systems and one other alternative system shall be conducted at sales held within one year after the first such tests. The results of such tests shall be incorporated into an overall analysis of these systems and this analysis shall be provided to Congress no later than twelve months after the sale date. If, during the first year following enactment of this Act, the Secretary finds that compliance with the limitations on use of the leasing system authorized by subparagraph (A) of paragraph (2) of this subsection would delay development of the oil and gas resources of the Outer Continental Shelf, he may exceed that limitation after he submits to the Senate and House of Representatives a report stating his finding and the reasons therefor. If, in any year following the first year after enactment of this Act, the Secretary finds compliance with such limitation would delay development of such resources, he shall submit to the Senate and House of Representatives a report stating his finding and the reasons therefor. If either the Senate or House of Representatives passes a resolution of disapproval of the Secretary's finding within thirty days after receipt of such report (not including days when Congress is not in session) such limitation shall not be exceeded.

(7) The United States shall have the right to purchase up to 16⅔ per centum by volume of the annual production of hydrocarbons from a lease at fair market value at the wellhead of the oil and/or gas (as may be the case) saved, removed, or sold. The lessees of any joint working group of successful bidders under subparagraph (G) or (H) of paragraph (2) of this subsection shall have the right to purchase shares of the remaining production in proportion to their shares in the joint working group, at fair market value at the wellhead of the oil and/or gas (as may the case) saved, removed, or sold.

(8) Joint bids shall not be permitted under the undivided working interest cash bonus bid system pursuant to subparagraph (G) or (H) of paragraph (2) of this subsection.

(9) The Secretary shall deposit in an interest-bearing escrow account the working interest cash bonuses received from each lease sold under the provisions of subparagraphs (G) and (H) of paragraph (2) of this subsection for the purpose of providing working capital for exploratory drilling on the lease sales pursuant to paragraph (9) of this subsection.

(10) The Secretary is authorized and directed to grant to the operating lessee or lessees of any joint working group of successful bidders under subparagraphs (G) and (H) of paragraph (2) of this subsection such funds as may be needed to finance 50 per centum of the cost of exploratory drilling on the lease areas as such costs accrue. Such matching grants shall be paid from the proceeds of the working interest cash bonus bids for each lease sale: Provided, however, That no grants shall be made in excess

of the total working interest cash bonuses received for the respective lease sale. Funds from the working interest cash bonus bids remaining at the completion of exploratory drilling shall be deposited in the Treasury of the United States.

(b) An oil and gas lease issued pursuant to this section shall (1) cover an area designated by the Secretary on the basis of entire geological structures or traps, to the maximum extent practicable; or (2) comprise a reasonable, economic production unit as determined by the Secretary; (3) be for a period of (i) five years or (ii) for up to ten years where the Secretary deems such longer period necessary to encourage exploration and development in areas for unusually deep water or adverse weather conditions and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon; (4) require the payment of value as determined by one of the bidding procedures set out in subsection (a) of this section; (5) entitled the lessee to explore, develop, and produce the oil and gas resources contained within the lease areas: Provided, however, That such development and production is conditioned upon approval of the development and production plan required by section 5 of this Act; and (6) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.

(c) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the Outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the Outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(d) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

(e) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(f) Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

(g) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

(h) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question whether or not the area involved is in the outer Continental Shelf.

(i) The Secretary may cancel any lease obtained by fraud or misrepresentation.

(j) Any person complaining of a cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within sixty days after the Secretary takes such action.

(k)(1) Upon commencement of production of oil from any lease, issued after the effective date of this subsection, the Secretary shall offer to the public and sell by competitive bidding for not less than its fair market value, in such amounts and for such terms as he determines, that proportion of the oil produced from said lease which is due to the United States as royalty or net profit share oil. The Secretary shall limit participation in such sales where he finds such limitation necessary to assure adequate supplies of oil at equitable prices to independent refiners. In the event that the Secretary limits participation in such sales, he shall sell such oil at an equitable price. The lessee shall take any such royalty oil for which no acceptable bids are received and shall pay to the United States a cash royalty equal to its fair market value, but in no event shall such royalty be less than the fair market value.

(2) In the event that net profit share oil produced under an undivided working interest cash bonus bid system pursuant to subparagraphs (G) and (H), paragraph (2) of subsection (a) of section 8 of this Act as amended is sold back to the lessees, each party to the joint working group shall be eligible to purchase pro rata share according to its per centum working interest.

SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

SEC. 10. REFUNDS.—(a) Subject to the provisions of subsection (b) hereof, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the making of the payment, or within ninety days after the effective date of this Act. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to

make such repayments out of any moneys in the special account established under section 9 of this Act and to issue his warrant in settlement thereof.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: *Provided*, That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress.

SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—[Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.] *No person shall conduct any type of geological or geophysical explorations in the Outer Continental Shelf without a permit issued by the Secretary. Each such permit shall contain terms and conditions designed to (1) prevent interference with actual operations under any lease maintained or granted pursuant to this Act; (2) prevent or minimize environmental damage; and (3) require the permittee to furnish the Secretary with copies of all data (including geological, geophysical, and geochemical data, well logs, and drill core analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased under this Act or until such time as he determines that making the data available to the public would not damage the competitive position of the permittee, whichever comes later.*

SEC. 12. RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the

President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

(f) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

SEC. 13. NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

SEC. 14. PRIOR CLAIMS NOT AFFECTED.—Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however*, That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this Act or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

[SEC. 15. REPORT BY SECRETARY.—As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connection with the administration of this Act during the preceding fiscal year.]

ANNUAL REPORT BY SECRETARY TO CONGRESS

SEC. 15. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the leasing and production program in the Outer Continental Shelf during such fiscal year,

including a detailing of all moneys received and expended, and of all leasing, development, and production activities; a summary of management, supervision, and enforcement activities; a summary of grants made from the Coastal State Fund; and recommendations to the Congress for improvements in management, safety and amount of production in leasing and operations in the Outer Continental Shelf and for resolution of jurisdictional conflicts or ambiguities.

SEC. 16. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 17. SEPARABILITY.—If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.

DEVELOPMENT OF OUTER CONTINENTAL SHELF LEASING PROGRAM

SEC. 18. (a) The Secretary is authorized and directed to prepare and maintain a leasing program to implement the policy set forth in section 3 of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity that will best meet national energy needs for the five-year period following its approval or reapproval in a manner consistent with the following principles:

(1) management of the Outer Continental Shelf in a manner which considers all of the economic, social, and environmental values of the renewable and nonrenewable resources contained therein and the potential impact of oil and gas exploration and development on these values of the Outer Continental Shelf and the marine and coastal environments;

(2) timing and location of leasing to distribute exploration, development, and production of oil and gas among various areas of the Outer Continental Shelf, considering:

(A) existing information concerning their geographical, geological, and ecological characteristics;

(B) their location with respect To, and relative needs of, regional energy markets;

(B) their location with respect to, and relative needs of, regional energy markets;

(C) their location with respect to other uses of the sea and seabed including fisheries, intracoastal navigation, existing or proposed sea lanes, potential sites of deepwater ports, and other existing or potential uses of the resources and space in the Outer Continental Shelf;

(D) interest by potential oil and gas producers in exploration and development as indicated by tract nominations and other representations;

(E) an equitable sharing of developmental benefits and environmental risks among various regions of the United States; and

(F) laws, goals, and policies of the affected and adjacent coastal States;

(3) timing and location of leasing so that areas with the greatest potential for environmental damage and impact on the coastal zone are leased last, to the maximum extent practicable, consistent with the Secretary's determination of national needs.

(4) receipt of fair market return for public resources.

(b) The program shall include estimates of the appropriations and staffing required by all Federal agencies and programs necessary to—

(1) conduct such geophysical exploration authorized by section 19 of this Act as may be deemed necessary;

(2) obtain resource information and any other information needed to prepare the leasing program required by this section;

(3) analyze and interpret any data and other information which may be compiled under the authority of this Act;

(4) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.); and

(5) supervise operations under each lease in the manner necessary to assure compliance with the requirements of the law, the regulations and the terms of the lease.

(c) The environmental impact statement on the leasing program prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, shall include, but shall not be limited to, an assessment by the Secretary of the relative significance of the probable oil and gas resources of each area proposed to be offered for lease in meeting national demands, the most likely rate of exploration and development that is expected to occur if the areas are leased, and the relative environmental hazard of each area. Such environmental impact statement shall be based on consideration of the following factors, without being limited thereto: geological and geophysical conditions, biological data on existing animal, marine, and plant life, and commercial and recreational uses of nearby land and water areas.

(d) The Secretary shall, by regulation, establish procedures for receipt and consideration of nominations for areas to be offered for lease or to be excluded from leasing, for public notice of and participation in development of the leasing program, for review by State and local governments which may be impacted by the proposed leasing, and for coordination of the program with the management program being developed by any State for approval pursuant to section 305 of the Coastal Zone Management Act of 1972 and to assure consistency with the management program of any State which has been approved pursuant to section 306 of such Act. These procedures shall be applicable to any revision or reapproval of the leasing program.

(e) The Secretary shall publish a proposed leasing program in the Federal Register and submit it to the Congress together with a draft environmental impact statement within nine months after enactment of this section. At least sixty days prior to approving a proposed leasing program the Secretary shall submit it to the President and the Congress together with any comments received from State and local governments, and from any regional Outer Continental Shelf

advisory board established by section 30 of this Act. Such submission shall indicate why any specific recommendations of a State or local government or regional advisory board were not accepted.

(f) After the leasing program has been approved by the Secretary or after June 30, 1977, whichever comes first, no leases under this Act may be issued unless they are for areas included in the approved leasing program.

(g) The Secretary may revise and reapprove the leasing program at any time and he must review and reapprove the leasing program at least once each year.

(h) The Secretary is authorized to obtain from public sources, or to purchase from private sources, any surveys, data, reports, or other information (including interpretations of such data, surveys, reports, or other information) which may be necessary to assist him in preparing environmental impact statements and making other evaluations required by this Act. The Secretary shall maintain the confidentiality of all proprietary data or information for such period of time as is agreed to by the parties.

(i) The heads of all Federal departments or agencies are authorized and directed to provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program. In addition, the Secretary is authorized and directed to utilize the existing capabilities and resources of other Federal departments and agencies by appropriate agreement.

FEDERAL OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM

SEC. 19. (a) The Secretary is authorized and directed to conduct an information gathering program regarding oil and gas resources of the Outer Continental Shelf. This program shall be designed to provide information about the probable location, extent, and characteristics of such resources including, but not limited to, the probable geographical extent of any structure or trap, in order to provide a basis for (1) development and revision of the leasing program required by section 18 of this Act, (2) greater and better informed competitive interest by potential producers in the oil and gas resources of the Outer Continental Shelf, (3) more informed decisions regarding the value of public resources and revenues to be expected from leasing them, and (4) assisting State and local governmental agencies in assessing the likely impacts of the development of such public resources.

(b) The Secretary is authorized to contract for, or purchase the results of, where the required information is not available from commercial sources, conduct seismic, geomagnetic, gravitational, geophysical, or geochemical investigations, and to contract for or purchase the results of stratigraphic drilling, needed to implement the provisions of this section.

(c) The Secretary, in cooperation with the Secretary of Commerce, is directed to prepare and publish and keep current a series of detailed bathymetric, geological, and geophysical maps of and reports about the Outer Continental Shelf, based on nonproprietary data, which shall include, but not necessarily be limited to, the results of seismic, gravitational, and magnetic surveys on an appropriate grid spacing to define

the general bathymetry, geology, and geophysical characteristics of the area. Such maps shall be prepared and published no later than six months prior to the last day for submission of bids for any areas of the Outer Continental Shelf scheduled for lease on or after June 30, 1977.

(d) Within six months after enactment of this section, the Secretary shall develop and submit to Congress a plan for conducting the information gathering programs required by this section. This plan shall include an identification of the area to be surveyed and mapped during the first five years of the programs and estimates of the appropriations and staffing required to implement them.

(e) The Secretary shall include in the annual report required by section 15 of this Act, information concerning the carrying out of his duties under this section, and shall include as a part of each such report a summary of the current data for the period covered by the report.

(f) No action taken to implement this section shall be considered a major Federal action for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969.

(g) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section during fiscal years 1975 and 1976, to the Secretary and to appropriate Federal agencies having responsibilities under this section.

(h) The Secretary shall, by regulation, require that any person holding a lease issued pursuant to this Act for oil or gas exploration or development on the Outer Continental Shelf shall provide the Secretary with any existing data (excluding interpretation of such data) about the oil or gas resources in the area subject to the lease. The Secretary shall maintain the confidentiality of all proprietary data or information until such time as he determines that public availability of such proprietary data or information would not damage the competitive position of the lessee.

(i) The Secretary shall make available by appropriate means to the public, the regional Outer Continental Shelf advisory boards and to appropriate State and local governmental agencies all data, information, maps, interpretations, and surveys which are obtained pursuant to subsection (b) of this section directly by the Secretary or under a service contract: Provided, however, That the Secretary shall maintain the confidentiality of all proprietary data or information purchased from commercial sources while not under contract with the United States Government for such period of time as is agreed to by the parties. For the purpose of this subsection, subsection 552(b)(9) of title 5 of the United States Code shall not apply to geological and geophysical information and data, including maps, concerning wells or other related information acquired directly by the Department or under a service contract pursuant to subsection (b) of this section.

(j) All Federal departments or agencies are authorized and directed to provide the Secretary with any information or data (except information or data required by law to be kept confidential by such department or agency) that may be deemed necessary to assist the Secretary in implementing the information program pursuant to this section of this Act. Proprietary information or data provided to the Secretary under the provisions of this subsection shall remain con-

fidential for such period of time as was agreed to by the parties at the time it was obtained by such department or agency. In addition, the Secretary is authorized and directed to utilize the existing capabilities and resources of other Federal departments and agencies by appropriate agreement.

SAFETY REGULATIONS FOR OIL AND GAS OPERATIONS

SEC. 20. (a) POLICY.—It is the policy of this section to insure, through improved techniques, maximum precautions, and maximum use of the best available technology by well-trained personnel, safe operations in the Outer Continental Shelf. Safe operations are those which prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, or other occurrences which may cause damage to the environment, or to property, or endanger human life or health.

(b) REGULATION; STUDY.—(1)(A) The Secretary with the concurrence and advice of the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall develop, from time to time revise, and promulgate safety regulations for operations in the Outer Continental Shelf, to implement as fully as possible the policy of subsection (a) of this section. Within one year after the enactment of this section, the Secretary shall complete a review of existing safety regulations, consider the results and recommendations of the study authorized in paragraph (2) of this subsection, and promulgate a complete set of safety regulations (which may include Outer Continental Shelf orders) applicable to operations in the Outer Continental Shelf or any region thereof. Any safety regulations in effect on the date of enactment of this section which the Secretary finds should be retained shall be promulgated according to the terms of this section, but shall remain in effect until so repromulgated. No safety regulations (other than field orders) promulgated pursuant to this subsection shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect.

(B) In promulgating regulations under this section, the Secretary shall require on all new drilling and production operations and, wherever practicable on already existing operations, the use of the best available technology wherever failure of equipment would have a significant effect on public health, safety, or the environment.

(2) Upon the enactment of this section, the National Academy of Engineering shall conduct a study of the adequacy of existing safety regulations and technology, equipment, and techniques for operations in the Outer Continental Shelf, including but not limited to the subjects listed in subsection (a) of this section. Not later than nine months after the enactment of this section, the results of the study and recommendations for improved safety regulations shall be submitted to the Congress and to the Secretary.

RESEARCH AND DEVELOPMENT

SEC. 21. (a) The Secretary is authorized and directed to carry out a research and development program designed to improve safety of operations related to exploration and development of the oil and gas

resources of the Outer Continental Shelf where similar programs are not presently being conducted by any Federal department or agency and where he determines that such research and development is not being adequately conducted by any other public or private entity including but not limited to—

(1) downhole safety devices,

(2) methods for reestablishing control of blowing out or burning wells,

(3) methods for containing and cleaning up oil spills, and

(4) improved flow detection systems for undersea pipelines.

(b) The Secretary of the department in which the Coast Guard is operating, shall establish equipment and performance standards for oil spill cleanup plans and operations. Such standards shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan. Before such standards are issued, the Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration shall be given an opportunity to review and comment on the proposed standards.

(c) The Secretary of Commerce, in cooperation with the Secretary of the Navy, the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institutes of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety.

ENFORCEMENT OF SAFETY REGULATIONS; INSPECTIONS

SEC. 22. (a) (1) The Secretary and the Secretary of the department in which the Coast Guard is operating shall jointly enforce the safety and environmental protection regulations promulgated under this Act. They shall regularly inspect all operations authorized pursuant to this Act and strictly enforce safety regulations promulgated pursuant to this Act and other applicable laws and regulations relating to public health, safety, or environmental protection. All holders of leases under this Act shall allow prompt access at the site of any operations subject to safety regulations to any inspector, and provide such documents and records that are pertinent to public health, safety, or environmental protection, as such Secretaries or their designees may request.

(2) The Secretary, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall promulgate regulations within one hundred and twenty days of the enactment of this section to provide for—

(A) physical observation at least once each year by an inspector of the installation or testing of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

(B) periodic onsite inspection without advance notice to the lessee to assure compliance with public health, safety, or environmental protection regulations.

(3) The Secretary of the department in which the Coast Guard is operating shall make an investigation and public report on all major fires and major oil spillage occurring as a result of operations pursuant

to this Act. For the purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil over a period of thirty days: Provided, That he may, in his discretion, make an investigation and report of lesser oil spillages. All holders of leases under this Act shall cooperate with him in the course of such investigations.

(4) For the purposes of carrying out their responsibilities under this section, the Secretary or the Secretary of the department in which the Coast Guard is operating may by agreement utilize with or without reimbursement the services, personnel, or facilities of any Federal agency.

(b) The Secretary or the Secretary of the department in which the Coast Guard is operating shall consider any allegation from any person of the existence of a violation of any safety regulations issued under this Act. The Secretary shall answer such allegation no later than ninety days after receipt thereof, stating whether or not such alleged violations exist and, if so, what action has been taken.

(c) In any investigation directed by this section the Secretary or the Secretary of the department in which the Coast Guard is operating shall have power to summon before them or their designees witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the United States district court. In addition, they or their designees shall administer all necessary oaths to any witnesses summoned before said investigation.

LIABILITY FOR OIL SPILLS

SEC. 23. (a) Any person in charge of any oil and/or gas operations in the Outer Continental Shelf, as soon as he has knowledge of a discharge or spillage of oil from an operation, shall immediately notify the United States Coast Guard of such discharge. Any such person who fails to comply with this requirement shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both. Notification received pursuant to this subsection, or information obtained by the use of such notification, shall not be used against any such individual in any criminal case, except a prosecution for perjury or for giving a false statement.

(b) (1) Notwithstanding the provisions of any other law, the holder of a lease or right-of-way issued or maintained under this Act and the Offshore Oil Pollution Settlements Fund (hereinafter referred to as the "the fund") established by this subsection shall be strictly liable without regard to fault and without regard to ownership of any adversely affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by any damaged party for subsistence or economic purposes, in accordance with the provisions of this subsection for all damages, including cleanup costs, sustained by any person as a result of discharges of oil or gas from any operation authorized under this Act and maintained by such holder of a lease or right-of-way if such damages occurred (A) within the territory of

the United States, Canada, or Mexico, or (B) in or on waters within two hundred nautical miles of the baseline of the United States, Canada, or Mexico from which the territorial sea of the United States, Canada, or Mexico is measured, or (C) within one hundred nautical miles of any such operation. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Strict liability shall not be imposed under this subsection on the holder or the fund if the holder or the fund proves that the damage was caused by an act of war. Strict liability shall not be imposed under this subsection on the holder if the holder proves that the damage was caused by the negligence of the United States or other governmental agency. Strict liability shall not be imposed under this subsection with respect to the claim of a damaged person if the holder or the fund proves that the damage was caused by the negligence or intentional act of such person.

(3) The holder shall be liable for the first $7,000,000 of such claims that are allowed. The fund shall be liable for the balance of the claims that are allowed.

(4) In any case where liability without regard to fault is imposed pursuant to this subsection, the rules of subrogation shall apply in accordance with the laws of the State in which such damages occurred: Provided, however, That in the event such damages occurred outside the jurisdiction of any State, the rules of subrogation shall apply in accordance with the laws applicable pursuant to section 4 of this Act.

(5) The Offshore Oil Pollution Settlements Fund is hereby established as a nonprofit corporate entity that may sue and be sued in its own name. The fund shall be administered by the holders of leases issued under this Act under regulations prescribed by the Secretary. The fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress. Claims allowed against the fund shall be paid only from moneys deposited in the fund.

(6) There is hereby imposed on each barrel of oil produced pursuant to any lease issued or maintained under this Act a fee of 2½ cents per barrel. The fund shall collect the fee from the lessees or their assignees. Costs of administration shall be paid from the money collected by the fund, and all sums not needed for administration and the satisfaction of claims shall be invested prudently in income producing securities approved by the Secretary. Income from such securities shall be added to the principal of the fund.

(7) If the fund is unable to satisfy a claim asserted and finally determined under this subsection, the fund may borrow the money needed to satisfy the claim from any commercial credit source, at the lowest available rate of interest, subject to the approval of the Secretary. If the Secretary finds that such credit is not available, the fund may borrow the money needed to satisfy the claim from the United States Treasury at existing commercial interest rates.

(8) No compensation shall be paid under this subsection unless notice of the damage is given to the Secretary within three years following the date on which the damage occurred.

(9) Payment of compensation for any damage pursuant to this subsection shall be subject to the holder or the fund acquiring by subrogation all rights of the claimant to recover for such damages from any other person.

(10) The collection of amounts for the fund shall cease when $200,000,000 has been accumulated, but shall be renewed when the accumulation in the fund falls below $2000,000. The fund shall insure that collections are equitable to all holders of a lease or right-of-way.

(11) The several district courts of the United States shall have jurisdiction over claims against the fund.

(c) (1) Whenever any oil is discharged or spilled as a result of an operation on the Outer Continental Shelf, the Secretary for the Department in which the Coast Guard is operating shall remove or arrange for the removal of such oil as soon as possible, unless that Secretary determines such removal will be done properly and expeditiously by the lessee or permittee of the operation from which the discharge occurs.

(2) Removal of oil and actions to minimize damage from oil discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act, as amended (86 Stat. 862; 33 U.S.C. 1321 et seq.).

(3) Whenever the Secretary of the Department in which the Coast Guard is operating acts to remove a discharge or spillage of oil pursuant to this subsection, he is authorized to draw upon money available in the Offshore Oil Pollution Settlements Fund established pursuant to subsection (c) of this section. Such money shall be used to pay promptly for all cleanup costs incurred by the United States Government in removing or in minimizing damage caused by such oil spillage or discharge.

(d) The Secretary shall establish requirements that all holders of leases issued or maintained under this Act shall establish and maintain evidence of financial responsibility of not less than $7,000,000. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the Secretary: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

(e) The provisions of this section shall not be interpreted to supersede section 311 of the Federal Water Pollution Control Act Amendments of 1972 or preempt the field of strict liability or to enlarge or diminish the authority of any State to impose additional requirements.

COASTAL STATE FUND

SEC. 24. (a) There is hereby established in the Treasury of the United States the Coastal State Fund (hereinafter referred to as the 'fund'). The Secretary shall manage and make grants from the fund according to the regulations established pursuant to subsections (b) and (c) to the coastal States impacted by anticipated or actual oil and gas production.

(b) The purpose of such grants shall be to assist coastal States impacted by anticipated or actual oil and gas production to ameliorate adverse environmental effects and control secondary social and economic impacts associated with the development of Federal energy resources in, or on the Outer Continental Shelf adjacent to the submerged lands of such States. Such grants may be used for planning, construction of public facilities, and provision of public services, and such other activities as may be prescribed by regulations promulgated pursuant to subsection (c) of this section. Such regulations shall, at a minimum, (1) provide that such grants be directly related to such environmental effects and social and economic impacts; (2) take into consideration the acreage leased or proposed to be leased and the volume of production of oil and gas from the Outer Continental Shelf off the adjacent coastal State; and (3) require each coastal State, as a requirement of eligibility for grants from the fund, to establish pollution containment and cleanup systems for pollution from oil and gas development activities on the submerged lands of each such State.

(c) The Secretary of Commerce, in accordance with the provisions of subsection (b), and this subsection, shall, by regulation, establish requirements for grant eligibility: Provided, That it is the intent of this section that grants shall be made to impacted coastal States to the maximum extent permitted by subsection (f) of this section and that grants shall be made to impacted coastal States in proportion to the effects and impacts of offshore oil and gas exploration, development and production on such States: And provided further, That it is the intent that units of general purpose local government may share in the State fund in the proportion that they are impacted by Outer Continental Shelf development as determined by the respective States. Such grants shall not be on a matching basis but shall be adequate to compensate impacted coastal States for the full costs of any environmental effects and social and economic impacts of offshore oil and gas exploration, development, and production. The Secretary shall coordinate all grants with management programs established pursuant to the Coastal Zone Management Act of 1972.

(d) The Secretary shall distribute annually to each of the impacted coastal States that proportion of $100,000,000 of the fund that equals the average for that State of the following proportions:

(1) the proportion of Outer Continental Shelf acreage leased off the shores of such State in that year to the total Outer Continental Shelf acreage leased in that year;

(2) the proportion of the number of wells drilled on the Outer Continental Shelf off the shores of such State in that year to the total number of wells drilled on the Outer Continental Shelf in that year;

(3) the proportion of the number of persons living in such State in that year who are employed in Outer Continental Shelf activities by Outer Continental Shelf lessees and their contractors to the total number of persons employed in Outer Continental Shelf activities in that year by Outer Continental Shelf lessees and their contractors;

(4) the proportion of the volume of oil and gas produced from Federal leases on the Outer Continental Shelf and first landed in

such State in that year to the total volume of oil and gas produced from Federal leases on the Outer Continental Shelf and first landed in the United States in that year;

(5) the proportion of the volume of oil and gas produced from Federal leases on the Outer Continental Shelf off the shores of such State in that year to the total volume of oil and gas produced from Federal leases on the Outer Continental Shelf in that year; and

(6) the proportion of onshore capital investment in such State by Outer Continental Shelf lessees, their contractors, and persons who first purchase, receive or expect to purchase or receive oil or gas produced in that year from Federal leases on the Outer Continental Shelf to the total such onshore investment in all coastal States made by such persons in that year.

(c)(1) A Coastal State may submit to the Secretary of Commerce an annual impact assessment of the adverse environmental, social and economic impacts on the State as a result of oil and gas exploration, development and production on the Outer Continental Shelf. The annual impact assessment shall seek to quantify the net adverse impacts to the State.

(2) If the Secretary of Commerce determines that the dollar amount of such impacts is greater than the amount distributed pursuant to subsection (d) of this section, he shall recommend to the Secretary that such State receive a grant from the fund. If the Secretary of Commerce recommends grants in excess of $100,000,000, the Secretary shall reduce the amount granted to the States pursuant to this subsection on a pro rata basis.

(f) Notwithstanding any other provision of law, 10 per centum of the Federal revenues from the Outer Continental Shelf Lands Act, as amended by this Act shall be paid into the funds: Provided, That the total amount paid into the fund shall not exceed $200,000,000 per year.

CITIZEN SUITS

SEC. 25. (a) Except as provided in subsection (b) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf—

(1) against any person including—

(A) the United States, and

(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of the provisions of this Act or the regulation promulgated thereunder, or any permit or lease issued by the Secretary; or

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary.

(b) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice in writing under oath of the violation (i) to the Secretary, and (ii) to any alleged violator of the provisions of this Act

or any regulations promulgated thereunder, or any permit or lease issued thereunder;

(B) if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this Act or the regulations thereunder, or the lease, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) Under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice in writing under oath of such action the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation complained of, constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(c) In any action under this section, the Secretary, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action, brought pursuant to subsection (a) of this section, may award costs of litigation including reasonable attorneys fees to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under this or any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief, including relief against the Secretary.

PROMOTION OF COMPETITION

SEC. 26. Within one year after the date of enactment of this section, the Secretary shall prepare and publish a report with recommendations for promoting competition and maximizing production and revenues from the leasing of Outer Continental Shelf lands, and shall include a plan for implementing recommended administrative changes and drafts of any proposed legislation. Such report shall include consideration of the following—

(1) other competitive bidding systems permitted under present law as compared to the bonus bidding system;

(2) evaluation of alternative bidding systems not permitted under present law;

(3) measures to ease entry of new competitors; and

(4) measures to increase supply to independent refiners and distributors.

ENFORCEMENT AND PENALTIES

SEC. 27. (a) At the request of the Secretary or the Secretary of the Department in which the Coast Guard is operating, the Attorney General may institute a civil action in the district court of the United

States for the district in which the affected operation is located for a restraining order or injunction or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under the authority of this Act.

(b) If any person shall fail to comply with any provision of this Act, or any regulation or order issued under the authority of this Act, after notice of such failure and expiration of any period allowed for corrective action, such person shall be liable for a civil penalty of not more than $5,000 for each and every day of the continuance of such failure. The Secretary or the Secretary of the department in which the Coast Guard is operating may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation shall have been given an opportunity for a hearing on such charge.

(c) Any person who knowingly and willfully violates any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect public health, safety, or the environment or conserve natural resources of knowingly and willfully make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act, or who knowlingly and willfully falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or knowingly and willfully reveals any data or information required to be kept confidential by this Act, shall upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than one year, or both. Each day that a violation continues shall constitute a separate offense.

(d) Whenever a corporation or other entity violates any provision of this Act, or any regulation or order issued under the authority of this Act, any officer, or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out such violation shall be subject to the same fines or imprisonment as provided for under subsection (c) of this section.

(e) The remedies prescribed in this section shall be concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the remedies prescribed in this section shall be in addition to any other remedies afforded by any other law or regulation.

ENVIRONMENTAL BASELINE AND MONITORING STUDIES

SEC. 28. (a) Prior to approval of any development and production plan as required by section 5 of this Act (as amended), the Secretary, in consultation with the Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to as "Administrator"), shall conduct a study of the area or region involved to establish baseline information concerning the status of the marine and coastal environment of the Outer Continental Shelf and the coastal zone which may be affected by oil and gas development.

(b) Subsequent to development of any area studied pursuant to subsection (a) of this section, the Secretary shall monitor the areas involved in a manner designed to provide time-series data which can be compared with previously collected data for the purpose of

identifying any significant changes in the quality and productivity of the environment.

(c) Such studies shall be planned and carried out in full cooperation with the affected States.

(d) In addition to developing a baseline of information, such studies, to the extent practicable, shall be designed to predict impacts on the marine biota resulting from chronic low level pollution or large spills associated with Outer Continental Shelf production; the introduction of drill cuttings and drilling muds in the area; and from the laying of pipe to serve the offshore production area; and the impacts of development offshore on the adjacent and affected coastal areas.

ENVIRONMENTAL IMPACT STATEMENTS

SEC. 29. (a) The environmental impact statements related to the implementation of this Act pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.), shall include, in addition to any other statutory and regulatory requirements—

(1) interrelationships and cumulative environmental impacts of development of the proposed lease tract in relation to existing and possible future oil and gas developments or the siting of other energy facilities in the Outer Continental Shelf or in the adjacent coastal zone;

(2) population and growth characteristics of the affected coastal States or adjacent States and identification of any assumptions used to project the impact of proposed development of offshore oil and gas resources on population and growth, including an assessment of the effect of any possible change in population patterns or growth upon the resource base including land use, water, and public services;

(3) relationship and consistency of the proposed exploration or development and production of oil and gas to existing or developing or approved coastal zone management programs of the affected coastal States developed in accordance with the Coastal Zone Management Act of 1972 (86 Stat. 1280; 16 U.S.C. 1451 et seq.);

(4) probable secondary or indirect impact of the proposed exploration, development or production on the marine and coastal environments.

(b) In preparing environmental impact statements prior to leasing, the Secretary shall give primary emphasis to the assessment of environmental impacts relating to exploration activities to be conducted subsequent to leasing.

REGIONAL OUTER CONTINENTAL SHELF ADVISORY BOARDS

SEC. 30. (a) The Governors of coastal States may establish regional Outer Continental Shelf Advisory boards for such regions and with such membership as they may determine after consultation with the Secretary of the Interior and the Secretary of Commerce.

(b) Representatives of the following Federal officials shall be entitled to participate as observers in the deliberations of such boards: the Secretary, the Secretary of Commerce, the Administrator of Fed-

eral Energy Administration, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard, and the Administrator of the Environmental Protection Agency.

(c) Such boards shall advise the Secretary on all matters related to Outer Continental Shelf oil and gas development including but not limited to development of the leasing program required by section 18 of this Act; approval of development and production plans required preparation of by section 5 of this Act (as amended); implementation of environmental baseline and monitoring studies; and the environmental impact statements prepared in the course of implementation of this Act.

(d) If a regional advisory board or a Governor of a potentially affected coastal State makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or on a proposed development and production plan, the Secretary shall accept such recommendations from the regional advisory board or Governor, unless he determines they are not consistent with national security or overriding nation interests. No action shall lie to review the Secretary's exercise of discretion in accepting or rejecting such recommendations.

(e) The provisions of subsection (d) above shall apply only to recommendations submitted to the Secretary within sixty days of receipt by the board or the Governor of a notice of a proposed lease sale or of a development and production plan.

JUDICIAL REVIEW

SEC. 31. (a) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia Circuit.

(b) Any action of the Secretary to approve, require modification of, or disapprove a development and production plan pursuant to section 5 of this Act (as amended) shall be subject to judicial review only by a United States court of appeals for a circuit in which an affected coastal State is located.

(c) Any person who participated in the administrative proceedings related to the actions specified in subsections (a) and (b) of this section and who is adversely affected or aggrieved by the action must file a petition for review of the Secretary's action within sixty days from the date of such action. The petitioner forthwith shall transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary.

(d) The Secretary shall file in the court the record of any public hearings required by this Act and any additional information (including the environmental impact statement which accompanied the leasing program or development and production plan) upon which the Secretary based his decision, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been submitted to the Secretary during the administrative proceedings related to the actions involved.

(e) The court shall hear such petition solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(f) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

PLANNING INFORMATION TO COASTAL STATES

SEC. 32. As soon as practicable after each lease sale, the Secretary shall make available to the affected coastal States, additional information designed to assist them in planning for the on-shore impacts of possible oil and gas development and production. Such information shall include estimates of (1) the oil and gas reserves leased, (2) the size and timing of development if and when oil and/or gas is found, (3) the location of pipelines, and (4) general location and nature of on-shore facilities.

LIMITATIONS ON EXPORT

SEC. 33. Any oil or gas produced from the Outer Continental Shelf except such oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and renters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 (Act of December 30, 1969; 83 Stat. 841) and, in addition, before any oil or gas subject to this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1969 the President must make and publish an express finding that such exports will not increase reliance on imported oil or gas and are in the national interest and are in accord with the provisions of the Export Administration Act of 1969: Provided, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

ADDITIONAL VIEWS OF SENATOR BUMPERS

I am in general accord with S. 521 as reported by the Committee on Interior and Insular Affairs, but there is one important matter on which I wish to record my disagreement.

Section 202 of S. 521 would add a new Section 19 to the Outer Continental Shelf Lands Act of 1953. Proposed new Section 19(h) would read as follows:

> (h) The Secretary shall, by regulation, require that any person holding a lease issued pursuant to this Act for oil or gas exploration or development on the Outer Continental Shelf shall provide the Secretary with any existing data (excluding interpretation of such data) about the oil or gas resources in the area subject to the lease. The Secretary shall maintain the confidentiality of all proprietary data or information until such time as he determines that public availability of such proprietary data or information would not damage the competitive position of the lessee.

It will be noted that under this proposed new Section 19(h), the Secretary of the Interior would be forbidden to require lessees of federally owned tracts on the Outer Continental Shelf to furnish him with interpretations of their data concerning the oil or gas resources in the area subject to the lease. Being of the opinion that the Secretary should have such information available to him, I offered an amendment in Committee. This amendment would simply have changed one word in the proposed new Section 19(h). The word "excluding" would have been changed to "including," so that the proposed subsection would have read as follows:

> (h) The Secretary shall, by regulation, require that any person holding a lease issued pursuant to this Act for oil or gas exploration or development on the Outer Continental Shelf shall provide the Secretary with any existing data (including interpretation of such data) about the oil or gas resources in the area subject to the lease. The Secretary shall maintain the confidentiality of all proprietary data or information until such time as he determines that public availability of such proprietary data or information would not damage the competitive position of the lessee.

During the debate in Committee on this amendment, two amendments of a perfecting nature were proposed and accepted by me. One would have made clear that the right of the Secretary to obtain from lessees interpretations of data, as distinguished from data themselves, would have been prospective only. That is, any authority conferred by Section 19(h) as added to the law by S. 521 would have applied only to leases executed after the enactment of S. 521. In addition, it was agreed that the obligation to maintain confidentiality of proprietary

data or information of any kind would extend not only to the Secretary himself, but also to other government employees and all other persons who might obtain such data or interpretations, directly or indirectly, through the Secretary or any other employee of the government.

Despite my acceptance of these limiting and clarifying amendments, my amendment to S. 521 was defeated by a vote of 7 to 6. Senators Jackson, Church (by proxy), Metcalf, Glenn, Stone, and I voted in favor of the amendment. Senators Johnston, Haskell, Fannin (by proxy), Hansen, Hatfield (by proxy), McClure, and Bartlett voted against the amendment.

The amendment would have worked a modest but important change in the proposed new Section 19(h), and I continue to believe that it would represent better public policy than the bill as reported. Under the bill as reported, the Secretary of the Interior may not require a lessee to furnish him with interpreations of data pertaining to the very public property that the lessee is exploring or developing, despite the fact that such interpretations are indisputably valuable and relate exclusively to property title to which is vested in all the people of the United States. Certainly one of the incidents of ownership of property should be the right of the owner to obtain from permittees, lessees, or other persons entering upon or using his property any information concerning the property or its value that such persons may have. This information would (1) be useful to the Department of the Interior in determining the true worth of the oil and gas resources on the Outer Continental Shelf, (2) would assist the Department in its duty to estimate reserves of domestic oil and gas available for production and consumption, and (3) would provide the Department with a useful check on the geological and geophysical interpretations produced by its own employees.

It may be argued that it is unfair to require a private company which has expended its own funds to divulge not only raw data themselves, but also interpretations of such data, interpretations that are the product of the expert judgment of its employees. In general, such an argument is sound, and no one advocates that proprietary data, whether in the form of interpretations or otherwise, shoud be generally available to the Department of the Interior without regard to the ownership of the property to which they relate. In the instant case, however, it is worth repeating that the property, as a result of several decisions of the Supreme Court of the United States, belongs to all the people of this country, and that the lessees are entering upon it only as a result of permissions and leases granted by the Secretary of the Interior as representatives of the owners.

Fear was expressed during discussion of my amendment that interpretations of data might be "leaked" to the competitive disadvantage of the lessee furnishing such interpretations. The second sentence of proposed new Section 19(h), which would have been retained in my amendment, would provide an adequate safeguard against such "leaking." This sentence expressly requires that the Secretary of the Interior maintain the confidentiality not only of interpretations, but of all proprietary data, until such time as the Secretary determines that making such information public would not damage the competitive

position of the lessee. Thus, until all question of competitive harm had disappeared, the data and interpretations would be available only to the Interior Department and its employees, and could not fall into the hands of the public or companies competing with the lessee.

In addition, it is worth noting that S. 521 as reported would add a new Section 29(c) to the Outer Continental Shelf Lands Act of 1953. This proposed new subsection would expressly subject to criminal prosecution any person who knowingly and willfully reveals any data or information required to be kept confidential by the Act. Any such person would, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than one year, or both. Each day that a violation continues would constitute a separate offense. This penalty, it seems to me, is fully sufficient to deter any misuse of confidential data or interpretation.

In short, it is to the advantage of the public to have the fullest possible information about its own property. Adequate safeguards would protect lessees against competitive injury. I reserve the right to offer my amendment again on the floor.

DALE BUMPERS.

MINORITY VIEWS OF SENATORS FANNIN, HANSEN, AND BARTLETT

SUMMARY OF MINORITY VIEWS

We strongly oppose S. 521 and voted against reporting it for the following reasons:

1. The bill, while purporting to increase oil and gas production on the Outer Continental Shelf, would actually delay and decrease production of these vital resources.
2. The bill is completely unnecessary, and even undesirable according to the testimony of a majority of witnesses and by correspondence received from various officials of the administration.
3. There are many specific provisions of S. 521 which could delay energy self-sufficiency.
4. The geological data disclosure authority granted by the bill is confiscatory, anticompetitive, and would discourage OCS exploratory efforts and in combination with the mapping program required by the bill could encourage speculators to seek OCS leasing rights.
5. The first steps toward the formulation of a Federal oil and gas corporation would be taken under the broad authority of the bill.
6. Many problems posed by various provisions of the bill, while troublesome individually, taken in the aggregate would cause serious delays and inequities in expanding OCS leasing, exploration, and production programs thereby frustrating, rather than expediting the achievement of domestic energy self-sufficiency.
7. The bill's separation of the exploration phase from the development and production phase raises serious doubts as to whether a leaseholder would have a reasonably secure right to develop his leasehold.
8. The coastal State fund created by the bill would implement an unconscionable enticement of coastal States not to resist OCS leasing programs on Federal lands adjacent to their coast at the expense of all U.S. taxpayers and particularly to the detriment of the citizens of inland States.

These objections and others are set forth in detail below.

1. The bill, while purporting to increase oil and gas production on the Outer Continental Shelf, would actually delay and decrease production of these vital resources.

That this bill's sponsors changed the title of the legislation from "The Energy Supply Act" to "The Outer Continenal Shelf Management Act" bears living testimony to the fact that they are no longer concerned about increased domestic energy supplies, but rather have intensified their obsession with government management of resource development by the private sector.

The findings section of the bill recognizes the need for increased domestic production of oil and gas and the purposes section states that the bill is intended to "increase domestic production of oil and natural gas in order to assure material security, reduce dependence on unreliable foreign sources, and assist in maintaining a favorable balance of payments. . . ." The substantive contents of the bill, however, would have the effect of achieving just the opposite. The manifold disincentives created by the bill, hereinafter discussed at length would impair rather than increase domestic production on the OCS thereby frustrating material prosperity and national security, increasing dependence on unreliable foreign sources, and contributing to an increasingly infavorable balance of payments.

For example, Section 202 of S. 521 requires an environmental impact statement to accompany the leasing program mandated by that section. The language requires that the EIS include an oil and gas resource assessment for each area *proposed* for leasing. Completion of such a statement could require two, or even three years. No EIS is required on the present proposed leasing schedules the Department of Interior now issues, and we cannot see why an EIS should be required by the program mandated by S. 512—especially since the Department has already completed its programatic impact statement on the accelerated leasing program and is filing separate statements on each lease sale.

2. The bill is completely unnecessary, and even undesirable according to the testimony of a majority of witnesses and by correspondence received from various officials of the administration.

The following is a representative sample of the testimony presented last year on S. 3221, the predecessor of this legislation, to the Committee and the correspondence received supplementing the testimony, all of which underscores the lack of necessity of the bill, its manifold undesirable features, and the plethora of serious problems it would create, if enacted, as related to the efficient management of the OCS leasing program.

John C. Whitaker then Undersecretary, Department of the Interior, in testimony before the Subcommittee on Minerals, Materials and Fuels, Monday, May 6, 1974, stated:

> The existing Outer Continental Shelf Lands Act permits a substantial degree of latitude for adjustment to changing circumstances, conditions, and technology.
>
> We believe that our program for the development of the OCS can be fully carried out under the present law and that a significant change in the law could create serious delays in achieving the degree of energy self-sufficiency for the Nation which is so necessary.

(b) Duke R. Ligon, then Assistant Administrator, Federal Energy Office, on Monday, May 6, 1974, emphasized:

> In summary, we have significant problems with the proposed legislation. While the stated objectives of the proposed legislation are laudable, the overall effect of the bills before your Committee would be to seriously delay the leasing and development of this major source of domestic energy.

> Furthermore, many of the proposed amendments to the OCS Lands Act duplicate already existing programs and authorities, and we feel there is no need for additional amendments at this time. For these reasons, we are opposed to the bills pending before this Committee.
>
> Finally, we believe that the OCS Lands Act provides sufficient flexibility to allow the Secretary of Interior to make needed adjustments affecting OSC development.

(c) Several representatives of the private sector also expressed concern about the bill. D. G. Couvillon, Western Operations, Inc., Standard Oil of California, representing Western Oil and Gas Association, on Tuesday, May 7, 1974, remarked:

> * * * we believe that the present Outer Continental Shelf Lands Act is satisfactory and adequate, therefore we propose the proposed bill is not necessary.
>
> In other words, the objectives of Senate 3221 can be obtained through and under the present Act.

(d) Eugene H. Luntey, Executive Vice-President, Brooklyn Union Gas Company, representing the American Gas Association in a statement on May 10, 1974, contended:

> * * * we have serious reservations as to whether amendments to the OCS Act are either necessary or desirable at this time.
>
> On balance, it is our opinion that no legislative change is necessary to expedite OCS exploration—but Congress should express a sense of urgency for the Administration to proceed under the present act.

(e) The following testimony by witnesses regards proposals to amend the OCS Act with respect to specific objectives or proposals:

Melvin Hill, Vice-President for Exploration, Gulf Oil Corporation on May 10, 1974, stated:

> We see as a laudable objective the Department of the Interior's stated purpose to expand development of the OCS. However, we believe that legislation already enacted will accomplish this purpose in an expeditious, orderly, and safe manner, with resultant advantages to the American people.

(f) Eugene H. Luntey, on May 10, 1974 said:

> We would note it does not appear that additional legislation is necessary to expedite this kind of rapid development because if we observe the results of the Outer Continental Shelf Lands Act of 1953 we find in administering that act the various administrations in the United States have uniformly attempted to maintain a continuous and rational program of development of the Outer Continental Shelf.

(g) Russell Petersen, Chairman, Council on Environmental Quality in testimony on May 10, 1974 indicated:

> The Council agrees with many of the objectives of the bills, recognizing as they do the need for environmental protection of our marine, coastal, and onshore resources.

55-582 O - 75 - 7

It does not appear necessary or desirable, however, to enact these bills in order to ensure that the environmental risks of Outer Continental Shelf oil and gas operations be made acceptable.

(h) John R. Quarles, Deputy Administrator of the Environmental Protection Agency, May 6, 1974 remarked:

EPA was given the primary Federal responsibility for coming to grips with the complex problems of protecting our natural environment. Our Agency experience, motivation, and competence in handling this duty are not further encumbered by other responsibilities. With respect to the OCS, we see no reason for a departure from the present system.

(i) John C. Whitaker, on May 6, 1974, stated:

In conclusion, Mr. Chairman, we are expanding, our OCS leasing and we are convinced that this expanded program will be conducted under terms and conditions that protect our environment and our land based communities from unacceptable adverse impacts.

We believe that the flexibility provided by the current legislation is extremely desirable and that legislative changes are unnecessary at this time.

(j) Robert B. Kruger, Attorney-at-Law, on May 7, 1974 testified:

In 1968, I was the project director for the Study of the Outer Continental Shelf Lands of the United States, prepared by my law firm for the Public Land Law Review Commission.

We made a comprehensive study of the operation of the leasing system created under the Outer Continental Shelf Lands Act.

Our basic conclusion at that time was that the leasing system, itself, was a viable and competitive one which contained no major structural defects.

(k) Eugene H. Luntey, on May 10, 1974, emphasized:

* * * We are not convinced that a revision of the OCS Act is necessary, or would be the most expeditious route to pursue such changes.

We believe it may be possible for the bidding procedure to be modified by the Secretary of the Interior under the present Act so as to provide greater encouragement for exploration and development.

(l) Russell Petersen, on May 10, 1974, said:

Because of the scope of the oil spill liability issue and the inadvisability of dealing with the complex subject piecemeal, the Council does not believe that it is necessary or advisable to amend the OCS Lands Act to add a liability section. .

These comments are equally valid today.

3. There are many specific provisions of S. 521 which could delay energy self-sufficiency

(*a*) *Section 202, 18(d).*—This subsection is interpreted to call for an environmental impact statement on the leasing program which would include an oil and gas resource assessment of each area to be offered for leasing.

Past lease program schedules prepared by the Department have not required impact statements. Instead, environmental statements were prepared for individual sales scheduled. The Department is now preparing a programmatic impact statement for the proposed accelerated program to lease ten million acres annually, and presumably a separate impact statement will continue to be prepared for each lease sale under that schedule. None of these statements would satisfy the language of the bill as it is now written.

The time frame for completion of an impact statement in accordance with NEPA and a resource assessment as required in the bill could be restrictive. Preparation of a statement covering all areas to be included in the program could require two to three years to complete. It probably would be more complex than the trans-Alaska pipeline and oil shale statements and much more comprehensive than the CEQ environmental assessment of OCS development on the Atlantic and Gulf of Alaska, which was completed in one year.

(*b*) *Section 19.*—The proposed legislation would increase the Department's obligation for gathering, mapping and publishing data on OCS resources. Geophysical maps and other data would be required to be prepared and published by July 1, 1976, for OCS areas under lease or scheduled for lease on or before June 30, 1977.

Preparation and mapping for publication of such data would be costly in manpower and time; and because of the time lag for preparing and releasing the mapped data, the information supplied would be of questionable value to industry. Industry itself collects and continually updates data on potential OCS prospects well ahead of scheduled lease sales and in many instances ahead of the initial data gathered by the Government.

This data publication provision may not significantly delay energy development from the OCS. However, it will divert technical expertise away from data evaluation for selection of tracts to be offered for leasing. Identification of favorable prospects will be a critical factor in the success of an accelerated leasing program, especially in new frontier areas.

(*c*) *Section 27.*—This section requires completion of a study of methods to promote competition and maximize revenue, and presumably production, from leasing OCS lands. The study would include a plan for implementing recommended administrative changes and drafts of proposed legislation.

The Department has evaluated these points in the past and is continually investigating procedures for improving OCS leasing. Therefore, completing a study of these specified points within one year would prove to be only an exercise since there is no provision in the Act to incorporate further changes in leasing methods without additional legislation.

Succinctly stated, the Outer Continental Shelf Lands Act of 1953 has been and remains a landmark legislative measure which provides an ample statutory foundation for the orderly management of the oil and gas resources of the federal offshore area. The administration has repeatedly emphasized, and we agree, that tampering with an Act that has steadfastly served the nation for over twenty years is unnecessary, undesirable, and counterproductive. S. 521 appears therefore counterproductive to rapid attainment of energy self-sufficiency.

4. The geological data disclosure authority granted by the bill is confiscatory, anticompetitive, would discourage OCS exploratory efforts and in combination with the mapping program required by the bill could encourage speculators to seek OCS leasing rights

Section 18(i) authorizes the Secretary of the Interior to obtain unlimited "data" and "other information" from public and private sources concerning potential oil and gas reserves for use in preparing Environmental Impact Statements; and

Section 19(b) directs the Secretary to require lessees and exploration permit holders to disclose "any data about the oil or gas resources in the area subject to the lease" in order to conduct a mapping program.

Section 207 amends Section 11 of the existing Act and requires, as a condition for the issuance of an exploration permit, that the permittee turn over to the government all data obtained (including well logs and the actual drill cores) during exploration.

(a). Such authority is CONFISCATORY in nature and could lead to an unconstitutional "taking of proprietary information".

The proposed new Sec. 19(h) in Sec. 202 directs the Secretary to require lessees to provide him with "any existing data (excluding interpretations) about the oil or gas resources in the area subject to lease," but gives the Secretary the exclusive right to decide when public disclosure should occur. The lessee would have no right to his proprietary data that was acquired at great expense.

Although OCS lessees have, by regulation, traditionally been required to transmit raw data to the USGS resulting from drilling and production operations, they have not been required to disclose either raw data or proprietary interpretative information resulting from exploratory efforts conducted pursuant to an exploration permit for unleased areas. Hence requiring such disclosure could result in the confiscation of proprietary information.

Even though the bill requires that the Secretary shall maintain the confidentiality of all such proprietary data or information so received, these requirements have been qualified by vague clauses pertaining to the amount of time such information or data shall remain confidential.

It is likely that use of the data in the published maps and surveys required by the Act and in the environmental impact statements required by The National Environmental Policy Act, let alone the high probability of "leaks", will result in disclosure of proprietary information.

(b) Such disclosure of proprietary information and subsequent publication as part of the Environmental Impact Statements or as part

of the mapping publications required by the act would be ANTI-COMPETITIVE.

Such publication of proprietary information would alleviate or substantially reduce competition as between present or prospective OCS lessees. Regarding the disclosure of raw data as well as interpretative information, this anticompetitive effect is most severe in areas on the OCS not under lease. Exploration permits convey no exclusive rights to the holder to explore any area of the OCS. Each potential lessee has an equal right to explore any unleased area of the OCS and in turn an incentive to do so in order to acquire sufficient information to enable him competitively to identify promising tracts. To require him to disclose either data or interpretative information resulting from such exploratory initiatives cuts at the heart of the competitive system.

The very backbone of competitive free enterprise in the development of the OCS is the fact that private companies maintain and build their competitive positions on the strength of their own proprietary information. For such information to be given out by the Federal Government would destroy that free competition and therefore severely delay development of the OCS resource.

(c) Rather than increasing the ease of entry into OCS production operations, providing increased competition, the data and information disclosure requirements in combination with the requirement that the Secretary publish such data and information would discourage private efforts to obtain such exploratory data and information on the OCS.

A company would object to using its own capital to finance exploratory efforts if the results of such efforts would automatically be turned over to the government, which, through publication of such information in the form of maps and environmental impact statements would in turn be making it available to competing companies. The result would be a substantial lessening of private exploration forcing an increased level of federal exploration and a subsequent dependence upon such federal exploratory information by all companies wishing to obtain OCS leases. Thus, by virtue of the fact that the principal, if not exclusive, source of exploratory information will be that collected by the federal government greater uncertainty on the part of the companies concerning the interpretation of such data and reluctance by the companies to rely upon the exploratory information collected by the government would serve as a disincentive to responsible companies to submit bids at future OCS lease sales.

(d) Instead, SPECULATORS would be encouraged to try to make a "fast buck" by utilizing the data published by the federal government as a basis for submitting bids at future OCS sales.

5. The first steps toward the formulation of a Federal oil and gas corporation would be taken under the broad authority of the bill.

Section 19(b) authorizes the Interior Department to obtain information by itself conducting, contracting for or purchasing the results of, surveys and investigations.

Section 19(h) requires the industry to share its data about "the oil or gas resources" as a condition precedent for retaining a lease.

Section 207 requires disclosure to the Interior Department of data obtained pursuant to exploration permits.

Section 19(c) directs the Interior Department to map the OCS and to a degree of detail suitable for actually drilling for oil and gas and that no area may be leased until such maps are published.

Such authorities, if exercised, would cause the Interior Department to compete directly with private enterprise.

The enormity of the mapping requirements creates a huge informational need which can be filled only by government entering the data business in competition with private enterprise. Oil exploration and geophysical companies which normally sell their information to oil companies, will not want to supply geo-scientific data if they know it would be made public, since its value stems from its remaining confidential. There is, thus a strong disincentive to the industry which could be overcome only by government exercising its authority to perform the surveys on its own account. Because of government's market impact, not only would the geo-data industry lose a major customer, but it would face a new, all powerful competitor which would obtain, compile and publish the data at a fraction of its cost.

The need for increased drilling, caused by the mapping requirements, given the shortage of drilling rigs, would encourage the creation of a drilling fleet which also would compete with the drilling industry. Finally, the sections of the Act which authorize the collection of industry's raw data creates a distinct competitive disadvantage and an exploratory disincentive to private enterprise. The results of such a situation would be uncertainty, court battles, and delay. Industry would be forced out of business or out of the country in an effort to seek opportunities, thus increasing the delay in OCS development and increasing costs to the consumer.

Once private industry has been throughly discouraged and delays in OCS development are apparent, the availability of massive amounts of high quality information, trained survey, drilling and geological personnel and modern, sophisticated equipment, would dictate the use of it all "in the public interest". When all the above elements are present, we would have a federal oil and gas exploration company, complete with an unlimited supply of prospects, a captive market and the ability to control prices. Short of such a result, the government could easily be inclined to nationalize or partially nationalize the U.S. petroleum industry as the British government has already announced its intention to do in the North Sea area.

Such a temptation should never be presented to the government in a nation whose economic strength is the result of its protection of free enterprise.

6. Many problems posed by various provisions of the bill, while troublesome individually, taken in the aggregate would cause serious delays and inequities in expanding OCS leasing, exploration, and production programs thereby frustrating, rather than expediting the achievement of domestic energy self-sufficiency

(a) Sections 20 and 21 of the bill call for arbitrarily expanded and detailed safety programs.

Section 20 provides for safety regulations, requiring Secretarial promulgation subject to the concurrence of EPA and of Secretary of the Department in which the Coast Guard is operating, a complete review within one year after enactment and new studies. Section 21 would make Coast Guard responsible for oil spill clean up plans and operations and new section 22 makes it responsible for jointly with Interior for safety enforcement.

These provisions are unnecessary and administratively burdensome. Division of responsibility for the OCS program as provided in the bill

Also there is no way for the Congress to be able to generalize and prescribe for all future individual platforms in the Gulf of Mexico, the Atlantic, the Pacific and off Alaska, safety standards as all inclusive as those contained in Section 21. Implementing these safety requirements would cause serious delays not only because of expanded manpower and cost requirements, but also because of litigation which would result seeking to enjoin further OCS leasing, exploration, and production until all safety standards had been complied with.

(b) Section 25 of the bill authorizes citizen suits.

It thereby, in addition to citizen suits already encouraged by NEPA, creates broader standing for many new and separate causes of action to be brought against both the Interior Department and any person alleged to be violating any part of the Act. In light of the experience of the trans-Alaska pipeline litigation and numerous suits already brought under NEPA to enjoin OCS lease sales, this section would constitute an express invitation to each U.S. citizen to initiate lawsuits to slow down and otherwise delay the entire OCS program.

The citizens' suit provision of S. 521 is one more step toward "government by combat between attorneys".

Under this provision any citizen with an interest which is or may be adversely affected may commence a civil action to enforce the law. Any citizen may intervene as a matter of right in a suit being diligently prosecuted by the government.

By providing a forum for private citizens to share in or become the dominant partner in the Executive Branch's Constitutional responsibility to execute and enforce the laws of the land, the Congress is frustrating and thwarting the goal of orderly development of the Outer Continental Shelf.

Our system of jurisprudence has traditionally provided relief to persons when direct injury is involved. The language of this section, however, would substitute "interest" for "injury". It then goes one step further and attempts to create the interest by the trust concept of Section 201 which states that "is a vital national resource held in trust by the Federal Government for all people." Under such a concept all citizens would have a justifiable interest under the bill even though the interest is shared in common with all other citizens and there is no injury to the party bringing the suit. This is in abdication of government. Enforcement of the law of the land, insofar as the Outer Continental shelf is concerned, would be placed in the hands of citizens without regard to the diligence with which the government is performing its responsibilities. The net result will be a government by vigilantes.

In any action taken by the Federal Government different lawyers may have several different views which may or may not coincide with the governments. The sole basis for permitting this divergence of opinion to be argued in court should be whether or not a party has standing and is being injured. To provide otherwise, as this section does, will encourage a proliferation of law suits. The resultant effect will be lucrative attorneys' fees and delay.

Statutes should encourage obedience to orderly process and respect for lawful authority. This provision of S. 521 does neither. Section 25 would not only constitute an express invitation to citizens to initiate law suits to delay any or all parts of the expanded OCS program and thereby frustrate the early attainment of energy self sufficiency, but would additionally substitute government by individual extremist groups for government by organized representation.

The impact on attainment of energy self sufficiency is incalculable. Each suit could result in delay. Since continuing action is required of the Secretary (annual revision or reapproval of the leasing plan, coastal state grants, revision of lease terms etc.) there is no end to the delay that can be encountered if suits are filed every time the Secretary is required to act.

Some measure of the type of delay this type of litigation can cause is illustrated by the nation's experience with the Alaska pipeline. The five year delay was ended only by an act of Congress at a time when due to severe petroleum shortages many were waiting in long lines to obtain gasoline.

The citizen suit concept had its origin, presumably, in instances where the government agencies responsible for enforcing the law were failing to perform their duty. Suits by private citizens were a means of correcting that governmental dereliction. Section 25 assumes that the Secretary and other agencies of government will totally fail-to-perform their respective duties. It's almost anomalous that the functions assigned to the Secretary would be spelled out, and then, in effect, provide that if any citizen who doesn't agree with the Secretary can bring the matter up in litigation and let the Court decide whether the Secretary was right or wrong. A person who is injured should have "his day in court" and he does without citizen suit provisions. The citizen suit provision seems to encourage any person—who may not be injured—to bring policy determinations into the courthouse.

NEPA already presents sufficient opportunity for citizens to participate in the OCS decision making process; in fact, too much opportunity.

The Courts have become more and more liberal in recent years in granting "standing" to sue. The liberalized standing concept was somewhat narrowed by the Supreme Court in the Mineral King case (Sierra Club v. Morton). In that case the Court held that the goal is to put the right to litigate in the hands of those who have a direct stake in the outcome, not those who seek to do no more than vindicate their own value preferences through the judicial process. This decision still permits suit by any individual

who has in fact suffered an injury or by an organization as a representative of members who have in fact suffered an injury.

In *Natural Resources Defense Council v. Morton* several organizations sought and were granted an injunction barring lease sale of oil and gas on OCS because the NEPA statement failed to discuss in detail alternatives to the sale. This resulted in a delay of one year.

Finally, Section 25 contains this technical defect:

Citizen suits against lessees and other private persons should be limited to rules, regulations and permits applicable to such persons so as to preclude possible shut-down of OCS operations where basis of suit is collateral to actual lease operation—e.g. invalidity of general Secretarial regulations.

(c) Judicial Review—Section 31 can of itself be helpful in eliminating many unnecessary delays in the OCS development process. However, two further refinements of Section 31 would bolster this presently incomplete section and avoid the pitfall of the "Citizen Suit" of Section 25:

First, it should extend the same type of judicial review to contests involving the approval of individual lease sale. Second, this section should state that judicial review petitions or suits relating to such lease sale approvals are exclusively covered by this section and are specifically excluded from citizen suits as Section 25.

(d) Under Section 23, there is established an unlimited liability for damages, clean-up, and removal.

A liability fund is establishd through collection of 2½ cents for each barrel of oil produced in the Outer Continental Shelf.

The Federal Water Pollution Control Act Amendments of 1972 and well-established tort law provide full and adequate protection for damages and clean-up. To now establish new liability laws in this area is redundant and unnecessary. It is also counter to accelerating development of our domestic supplies. This results from requiring the diversion of $200,000,000 into a fund which could be more beneficially used to explore for and develop oil and gas.

In addition to the concept being ill-conceived, Section 23 is deficient in the following ways:

(1) a lessee is liable for damages to any person who is effected "(a) within the territory of the United States, Canada or Mexico; (b) in or on waters within two hundred nautical miles of the baseline of the United States, Canada or Mexico from which the territorial sea of the United States, Canada or Mexico is measured; or (c) within one hundred nautical miles of any operations authorized under this Act." It is inconceivable that in this bill dealing with development of our Outer Continental Shelf that we are trying to establish international law on damages due to persons in foreign countries. This is the purpose and intent of numerous international conventions and conferences, which are now underway, e.g., Law of the Sea Conference in Caracas, Venezuela. The scope of any liability section at this time should be limited to damages resulting in spills on the Outer Continental Shelf or in or on waters above the Outer Continental Shelf.

(2) Strict liability is imposed for damages even if the damages that occur are caused by an "Act of God". This has been a well-accepted defense to strict liability and should be included as such under Section 23(b)(2). This is particularly true when there is an absolute requirement to clean-up any spills regardless of cause.

(c) Section 203. Revision of Lease Terms, provides in part that bidding shall be at the discretion of the Secretary on the basis of a cash bonus with a fixed royalty or not less than 16⅔% or on the basis of a cash bonus with a share of the net profits derived from operation of the tract of no less than 50% reserved to the United States or on the basis of a cash bonus with a variable net profit bid.

Some of the alternatives are a "net profit" concept. If implemented this would severely reduce if not retard OCS development. A development program under a net profits sharing system would necessitate the recovery of substantially more reserves to economically justify the required expenditures to develop. Under this type of arrangement the lessee must recoup the tremendous costs of dry holes, lease acquisitions and other exploratory costs of non-productive leases from which there is no profit. This format will thus result in the elimination of some prospective tracts from bid consideration with the accompanying depression of production and reserves.

Under the existing bidding system, a bidder's evaluation of the reserve potential is the principal factor in determining the amount of bonus bid for a given tract. Under the proposed net profits sharing system, it is possible that the level of bidding will be keyed more to a minimum earning requirement and minimum expenditure level. This could result in less development at a slower pace. The goal for the Outer Continental Shelf is to maximize production through full and accelerated development.

Many tracts awarded under a net profits leasing format would not be fully developed and would be abandoned earlier in their producing life in view of added cost burdens, resulting in a waste of natural resources.

The arithmetic associated with several of the profit sharing bidding options contained in the section pertaining to revised leasing procedures, is inconsistent with the intent of the revisions. The numbers specified for minimum net profit share to the Federal Government, while ostensibly included for the purpose of ensuing a "fair" return to the Government, will have the actual effect of being so high as to preclude bidding by only the most speculative of companies. The great irony is that these provisions—intended to assist smaller companies to enter OCS operations—actually operate to prohibit these firms from participating at all. If no bids are offered, the lease will not be issued; wells will not be drilled; the Government will receive no revenues, and the consumer no oil.

Finally, Section 203 (3) (a) allows a lead time of only 90 days as to the type of bidding to be used. With so many options open, companies need sufficient lead time to gather and assimilate data for the upcoming sale. Yet, the front end bonus bidding options and resultant large capital outlays will deter medium sized oil companies from bidding. Hence, sufficient prior knowledge of which option will be utilized by the Department of the Interior in an upcoming sale is necessary.

Many companies will be reluctant to do an expensive pre-bidding evaluation of a tract 180 days before a sale for fear of an onerous bidding option being sprung upon them 90 days before the sale, making their expenditures useless.

7. The bill's separation of the exploration phase from the development and production phase raises serious doubts as to whether a leaseholder would have a reasonably secure right to develop his leasehold.

The bill's provisions relating to development and production plans are unnecessarily complex and, provide for one unnecessary review procedure too many, requiring still another new time-consuming environmental impact statement and might seriously curtail future bidding for OCS leases.

The latter results from the fact that S. 521 adds a major new element of uncertainty to an already risky business.

Sec. 203, which revises Sec. 8 of the existing Act, states in subsection (b)(5) that "an oil and gas lease . . . shall entitle the lessee to explore, develop and produce the oil and gas resources contained within the lease areas: *Provided however, That such development and production is conditioned upon approval of the development and production plan required by Section 5 of this Act.*"

Under the present Act and its regulations a leaseholder is, of course, required to submit a development plan for the secretary's approval or modification. But, further provisions of S. 521 set up such a formidable obstacle course to achieving and preserving this approval that many a prudent manager may decide it would be extremely unwise to risk millions of his company's dollars to buy a lease he might never be able to produce. Moreover, the complex process of getting a development plan approved would apply not only to future leases but to existing leases on which development or production had not started as of the effective date of the Act as well.

Prior to development and production, all lessees would be required to submit development and production plans to the Secretary, to the governors of the affected coastal states and to the Regional Outer Continental Shelf Advisory Boards established by Sec. 202. The Secretary shall then tentatively approve the plan, or portions of it, and transmit it—together with the ubiquitous draft environmental impact statement—to all of the preceding individuals and bodies, as well as to the general public and "any appropriate regional entity created by the Coastal Zone Management Act. Public hearings would be held 60 days later. After that, the operator would be free to proceed—"tentatively"—with development or production.

Among the items which must be included in any development plan is one which appears to be completely superfluous. A proposed new subsection (d)(4)(H) of the proposed new Sec. in the existing Act says the plan maker must certify "the consistency of the projected development and production plan in accordance with the provisions of section 307 of the Coastal Zone Management Act."

Under that section of the CZM Act a state would have 60 days in which to accept or reject such a certification and if it fails to act either way acceptance is "constructively preserved." But, suppose a state had no coastal zone management program to which the planner could certify?

Given the fact that other parts of Sec. 206 give the Secretary the broadest authority to approve, reject or require modification of these plans—because of what impact they may or may not have on the coastal zone, among other reasons—the certification required in ("H") is unnecessary.

The provisions relating to development and production plans, while often confusing, provide at least one clear message: A lessee faces an extremely hazardous journey if he sets out to obtain—and preserve—approval of the manner in which he seeks to develop, produce and deliver to shore the fruits (if any) of his exploratory efforts. Many we fear, will find that the risk is too great.

Although thorough review procedures are appropriate for the initial development plan in previously undeveloped areas to assure environmentally safe operations, these extensive review procedures—including an environmental impact statement and a public hearing—are not needed in the previously developed areas such as offshore Louisiana and Texas. They will also not be needed in the future when the new frontier areas have experienced some development. However, the bill as now drafted would require this lengthy process on any and all discoveries no matter when they were located or what the circumstances now or in the future.

A lessee must be assured of his right ultimately to develop and produce upon his lease holding if done in a same manner. If this right is not guaranteed, then the "lease" is of considerably lesser value to potential developers or even of no value at all.

8. The coastal State fund created by the bill would implement an unconscionable enticement of coastal States not to resist OCS leasing programs on Federal lands adjacent to their coast at the expense of all U.S. taxpayers and particularly to the detriment of the citizens of inland States

The creation of a program for granting OCS revenues to adjacent coastal states under Section 25 is an unwarranted diversion of revenues from the U.S. Treasury. Such a diversion of funds would be inflationary, inequitable, and constitute a poor budgetary practice. In addition, OCS receipts belong to all the people of the country who currently receive benefits through congressional appropriation from the Treasury. Diverting these revenues for coastal states only, without requirement for need, would give coastal states windfalls and would require increased taxation to make up for diverted revenues.

There are three reasons for sharing OCS receipts only with coastal states Examination of these rationales will reveal their illusory character.

Chapter 6.[1] Sharing OCS Revenues With Aajacent States

Introduction

This paper examines the possibility of sharing Federal collection from Outer Continental Shelf (OCS) mineral production with adjacent states. It considers various justifications which have been advanced for such sharing, examining the evidence in support of each,

[1] Reproduced from "Report of the Economic Working Group Outer Continental Shelf Task Force," May 1972, by Dr. William A. Vogley, Chairman, OCS Economic Work Group.

the type(s) of sharing each suggests, and the adjacent states for which a rationale seems to be particularly appropriate. The paper also considers the effect of different means on Federal revenues.

JUSTIFICATIONS FOR SHARING OCS REVENUES WITH ADJACENT STATES

Sharing OCS revenues with adjacent states has been supported for the following three reasons: (1) to compensate adjacent states for the adverse fiscal impact of OCS activity; (2) to compensate adjacent states for the adverse environmental impact of OCS activity; and (3) to mitigate state opposition to OCS activity. Each of these rationales is considered below.

(1) The argument has been made that OCS activity has an adverse fiscal impact on the adjacent state(s). Mineral production from the OCS does not yield any royalties or severance taxes to state governments. Yet the governments of adjacent states and localities must provide public services to OCS workers and their families. To help pay for these services, OCS revenues should be shared with adjacent states.

This argument, while making the accurate point that OCS mineral production does not yield any royalties or severance taxes to adjacent states, ignores the fact that OCS activity currently provides considerable revenues to adjacent states at present. Employees engaged in the various aspects of OCS activity are subject to state income tax, state general and selective sales taxes, state license fees, and state and local property taxes. Businesses located onshore serving offshore facilities are subject to state corporate income taxes, state sales taxes, and state and local property taxes.

The question thus becomes one of determining whether the additional state and local revenues attributable to OCS activity exceed or are equal to additional state and local expenditures because of OCS activity, and, if not, whether this provides a rationale for sharing OCS revenues to make up the difference. For the average state, it is likely that revenues will exceed or equal expenditures for the following reasons. Offshore workers and onshore workers in support of offshore facilities have incomes at average to above-average levels compared to average per capita and family income in the adjacent states off which OCS activity has occurred. Subsequently, they, on average, pay more capita in state sales and income taxes than the average resident of the state (these taxes accounted for 84% of all state tax collections in 1970). They will, also on average, pay more personal property tax to local governments. Onshore facilities serving OCS activity are major components of the property tax base of the communities where they are located. Hence, OCS activity provides, in most cases, greater than average shares of state and local revenues.

In particular circumstances, states may be able to prove a net burden. If so, payments corresponding to the net burden could be paid to affected states and localities. This, however, does not provide any argument to sharing a fixed percentage of OCS revenues with adjacent states.

(2) The argument has been made that OCS production poses the threat of potential environmental damage to adjacent states. OCS

revenues should therefore be shared with adjacent states to provide compensation for these damages.

This argument only supports impact payments as needed. It does not provide a rationale for regular sharing of a fixed percentage of OCS revenues. OCS production poses only a threat, not a certainty, of environmental damage. Compensation for damages is made only after damages have occurred, not whether they occur or not occur.

However, it is doubtful whether compensatory impact payments for environmental damage to adjacent states from OCS revenues is the appropriate means to handle potential problems here. Payments to states only are not likely to compensate all parties suffering damages. Moreover, if the liability for damages is borne by the Federal government, the incentives to operating companies to minimize the probability of occurrence of damage-causing accidents would be reduced.

An alternative approach to the problem would be to concentrate on minimizing the possibility of damage-causing accidents occurring by maintaining strict, adequately enforced Federal regulation of OCS exploration and production and by permitting only companies which can demonstrate an adequate technical and financial capability to explore and operate OCS leases. When accidents do occur, the company responsible should be liable for proven damages. Only those companies which have the capability to bear such liabilities should be permitted to lease OCS lands.

(3) The argument has been made that sharing of OCS revenues with adjacent states is necessary to overcome political objections to OCS exploration and production. Current or proposed OCS activity has occasioned state suits for a variety of reasons. Sharing is seen as a way of overcoming these.

The impact of sharing here depends on the sources and direction of state objections. States have gone into court with the Federal government claiming rights to OCS production. But, this has not been a source of opposition to OCS exploration and production, only to the sharing of revenues from it. This question is amenable to settlement, in the courts with OCS revenues held in escrow while exploration and production continue.

Several adjacent states (particularly Alaska, Louisiana, and Texas) have feared that offshore exploration and production will draw capital away from onshore exploration and production, thus having a long-term negative impact on state severance tax income. From the point of view of the nation as a whole, it is desirable that investment in exploration goes where it is likely to be most profitable (which, in the petroleum industry, generally means where production is likely to be most prolific). Moreover, given the substantial revenues which these states still receive from onshore activity, this is not likely to provide a substantial source of opposition.

State and groups within states have objected to OCS activity for fear of environmental damage. This has been the major reason for opposition to OCS exploration and production, particularly off the Atlantic Coast and off the California coast. It may also prove to be a source of opposition for Gulf of Alaska exploration as well. It is unknown whether the sharing of OCS revenues with adjacent states

could overcome this opposition. Essentially, it depends on the characteristics of the political coalition opposing OCS leasing. Such a measure is not likely to sway conservationist groups. It may produce some changes in position among state and local office-holders, probably in inverse proportion to the size of the opposing coalition. Alternative measures, such as those suggested under the discussion of the second argument, plus the establishment of a record of several years of exploration and production free from major accidents is likely to be more effective in overcoming opposition from this quarter.

In short, revenue sharing for this purpose may not be effective or may be less effective than other means. Moreover, unlike criteria based on need, this purpose offers no guidelines for selecting the appropriate percentage of OCS revenue to be shared with the abjacent states.

Finally, any program to share a fixed proportion (ranging from 5% to 50%) of OCS revenues with the adjacent states would have proportionally greater effects on Federal revenues. Such methods of sharing with adjacent states would encounter some problems in defining what constitutes the adjacent state. For OCS areas off Alaska, the Pacific Coast states, and the states bordering the Gulf of Mexico (with the possible exception of Louisiana-Mississippi-Alabama), this presents no problem. For the states on the Atlantic Coast north of Chesapeake Bay, the whole matter is highly problematical. The extension of state boundaries seaward results in many intersections in potential OCS areas (such as the Georges Bank and the Baltimore Canyon Trough). In some cases, three states could legitimately make a claim to be the adjacent state. Unless some distributive formula were developed which was acceptable to all parties (such as equal shares where multiple claims can be established), sharing programs based on the premise of automatic sharing with the adjacent state are likely to occasion considerable litigation.

For the reasons set forth in the above correspondence and supporting documentation, we question the wisdom, practicality and equity of Section 26.

The eight arguments detailed above should present our colleagues with a compelling case for voting against S. 521.

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